

RECORD OF PROCEEDINGS OF A
COURT OF INQUIRY
CONVENED AT
TRIAL SERVICE OFFICE PACIFIC
BY ORDER OF
COMMANDER IN CHIEF
UNITED STATES PACIFIC FLEET
TO INQUIRE INTO A COLLISION
BETWEEN USS GREENEVILLE (SSN 772) AND
JAPANESE M/V EHIME MARU THAT OCCURRED
OFF THE COAST OF OAHU, HAWAII
ON 9 FEBRUARY 2001
ORDERED ON 17 FEBRUARY 2001
AS AMENDED ON 22 FEBRUARY 2001;
26 FEBRUARY 2001;
1 MARCH 2001; AND
9 MARCH 2001

At Trial Service Office Pacific
Naval Station, Pearl Harbor, Hawaii
Friday, 16 March 2001

The court met at 0800 hours.

All persons connected with the inquiry who were present when the court recessed are again present in the court, with the exception of LT Mark Fulton, assistant counsel for LTJG Coen.

CC: Sir, the court has no procedural matters.

PRES: Counsel for the Parties, procedural matter?

Counsel for CDR Waddle, party (Mr. Gittins): No, sir.

Counsel for LCDR Pfeiffer, party (LCDR Stone): No, sir.

Counsel for LTJG Coen, party (LCDR Filbert): No, sir.

PRES: Okay. Counsel?

CC: Sir, at this time the court calls Petty Officer First Class McGiboney to the stand.

CC: Petty Officer McGiboney, last weekend you were advised of your rights under Article 31, Uniform Code of Military Justice. That rights advisement has been rescinded by the court. At present the court does not suspect you of having violated the Uniform Code of Military Justice and is calling you as a witness. Have you had an opportunity to discuss these matters with your attorney, CDR Orlando Ruiz-Roque?

WIT: Yes, I have, sir.

CC: Are you satisfied with his advice in this matter?

WIT: Yes, I am, sir.

CC: We will begin. Good morning, Petty Officer McGiboney.

WIT: Good morning, sir.

Edward W. McGiboney, Sonar Technician (Submarines) First Class, U.S. Navy, was called as a witness for the court, was sworn, and examined as follows:

DIRECT EXAMINATION

Questions by Counsel for the Court:

Q. Would you please state your full name, spelling your last name for the record?

A. Edward Wayne McGiboney. M-C-G-I-B-O-N-E-Y.

Q. And Petty Officer McGiboney, what is your current duty assignment?

A. Current duty assignment is onboard the USS GREENEVILLE as a Sonar Technician in the Sonar Division.

Q. How long have you been assigned onboard the USS GREENEVILLE?

A. Just a little over 3 1/2 years, sir.

Q. And you said you work in the Sonar Department?

A. Sonar Division, sir, under Weapons----

Q. Sonar Division under Weapons Department?

A. Yes, sir.

Q. Would you describe generally your duties and responsibilities in the Sonar Division?

A. As a senior Sonarman, my duties and responsibilities are to ensure the junior personnel are trained underway to run the Sonar Shack and to make sure the information that we gather from the Sonar Shack or the displays gets passed out to the Control area.

Q. And, can you describe the various underway watches that you are qualified to stand?

A. Yes, sir. Obviously all the junior Sonar watches from broadband through the auxiliary through the Sonar Supervisor and Chief of the Watch for underway, sir.

Q. And how long have you been qualified as Sonar Supervisor?

A. Onboard, I've been qualified just over 3 years, sir, and 1 year on a previous boat, sir.

Q. How often do you stand Sonar Supervisor when you are underway?

A. Every underway, sir.

Q. How do you maintain your proficiency other than standing watches as a Sonar Supe?

A. If we come in for a long period of time you can go up to the training building and you'll--say as a Sonar Supe, you have to do that once a month to keep your proficiencies.

Q. And that is up at NSTCP?

A. Yes, sir.

Q. Do you also conduct training on the boat?

A. Yes, sir, we do training as well on the boat for Sonar Supervisors, as well as the junior operators.

Q. How do you conduct that training?

A. Usually that is weekly, either the training building at NSTCP, another smaller training building where they have the Educational Services Offices, in that area, as well as we can do onboard training as well.

Q. Petty Officer McGiboney, I would like to talk to you now about the afternoon of 9 February of this year.

A. Yes, sir.

Q. Did you have watch as Sonar Supervisor that day?

A. Yes, sir. I took the watch at approximately 1130.

Q. Now we've heard some testimony about the watchbill. I think it indicated that you had the morning watch originally, is that true?

A. Yes, sir, that is correct.

Q. Did you stand the watch?

A. No, sir. I was Line 1 Supervisor when we cast off for the Maneuvering Watch and once we secured the Maneuvering Watch it wasn't that long before the next watch, so I just took the second watch.

Q. And what time did you take the Sonar Supervisor Watch in the afternoon?

A. That was approximately 1130.

Q. 1130? Who else was on watch with you in Sonar?

A. SN Rhodes, Petty Officer Bowie and Petty Officer Anderson, who was the Fathometer Watch, sir.

Q. Was SN Rhodes qualified to stand the watch in Sonar?

A. No, sir, he was not.

Q. Was anyone--testimony that the court has heard is that he was under instruction?

A. Well, he is an unqualified watchstander and the operator beside him, as well as myself, will oversee him to make sure he is doing his duties.

Q. Is that the common practice on GREENEVILLE to allow that to happen?

A. Since I've been onboard, yes, sir.

Q. By regulation is he required to have a qualified watchstander stand over him on that position?

A. Yes, sir, he is.

CC: Petty Officer McGiboney, RADM Sullivan has some questions related to the specific events and what you observed in Sonar. I'm going to turn it over to him right now. Admiral.

MBR (RADM SULLIVAN): Good morning.

WIT: Good morning, sir.

Counsel for CDR Waddle (Mr. Gittins): Sir, let me make sure I object here. It seems to me we've just established a potential dereliction of duty and the court has said that they do not believe that this man is entitled to his Article 31 rights, and I would have to disagree. I realize that he is not my client, but the Uniform Code of Military Justice says what it says.

CC: And that is the response, sir, is that Petty Officer McGiboney is not the client of Mr. Gittins, it is CDR Ruiz-Roque and he's had an ample opportunity to talk to his client, and Petty Officer McGiboney has agreed to come in and testify. And he has no standing--Mr. Gittins has no standing to object.

PRES: Now, has his counsel made it very clear about his rights and his opportunities for rights?

CC: Yes, sir, he has. I spoke directly to his counsel yesterday.

PRES: Alright. We'll note your objection. We'll proceed.

Counsel for CDR Waddle, party (Mr. Gittins): Yes, sir.

Questions by a court member (RADM Sullivan):

Q. Good morning. What I would like to do is kind of walk you through the events of the 9th, and before I do that I just want to talk about some general watchstanding principles, and just to get your feel and sense of where you were that day--what was on your mind. And again we are--as your, I'm sure pretty well aware, that we are a fact finding body here. And we are just trying to find the facts. And your position as Sonar Supervisor is certainly--you are in a position to help us out greatly. So, to help you with that I'm going to ask the court to provide you two statements--or two documents. One was a summation of your statement during RADM Griffiths' Preliminary Investigation. And the second one was a role up of your interview with Master Chief Anderson over at NSTCP, so you can refer to them as I refer to them. As we go through this, just give me your best answer. If you are going to speculate, that is fine, just kind of preface that way. If you know the answer, please, obviously be truthful with me.

CC: Admiral, let me just state for the record that Petty Officer McGiboney has been provided his statement, which was part of Exhibit 1, the statement that was part of the Preliminary Inquiry conducted by RADM Griffiths. And the next one is Exhibit 56, which is Master Chief Anderson's memo dated 3/1/2001.

Q. And also, as we go through--there--there is a couple of audio or visual aids here that will help you. The two that you see here, [pointing laser at exhibits] Exhibit 6, which is an overview of the Control Room and the Sonar Control space. To its left, [pointing laser at exhibit] Exhibit 4, which is the reconstructed track, it will help you as a guide for your memory. And we also have some other ones, time bearing presentation, which isn't exactly what you saw, but it is--at least to help you work your way through the testimony. As I start here, this report that Chief Anderson made that was given to us by the XO's counsel--could you give us some background how that came to be? Did--how did you all--you and your team end up going over to talk to Master Chief Anderson?

A. It was just one of the groups that had asked for us to do our interviews through different people, the NTSB, the initial interview, different--the XO's, CO's, and Mr. Coen's lawyer, just asked for different ones. I wasn't sure exactly who--which group he was with, but it was just one of the interviews that they asked.

Q. Okay. So it was a voluntary--one of the counsels asked you to go over and talk to Master Chief Anderson?

A. Yes, sir.

Q. What is Master Chief Anderson's stature? What does he do? Do you know?

A. I believe he works in the ACINT side of the building---

Q. Can you explain that for the folks that don't know what that means?

A. Yes, sir. You have the intelligence side--or acoustic gathering side of Sonar where you--they know all the data that we had. They know how to process it very well--know how to analyze it very well. They are the sonar experts, so to speak, in the field of sonar.

Q. If you look at that memo that you wrote, the first--after the first page--the next, I believe three pages--some of your interview. Have you had a chance to read that before?

A. I've seen something like this before but, I haven't read--read through it, sir. But, I have seen it.

Q. That is fine. And again, I am not going to try put you on the spot. If I refer to things, I'll give you a chance to reflect on it. Okay, let's go down into Sonar. You're a qualified Sonar Supervisor?

A. Yes, sir.

Q. Will you tell me what that encompasses? What functions--what responsibilities?

A. The responsibilities are, while you are underway to ensure any data that you have on the displays get passed out to Control. If you gain a contact, that data gets passed out. If you get any classification on that contact, that data gets passed out.

Q. Is it--would you say it is more--is it just passing sonar data out to Control to be worked by the watch team out there, or do you do any analysis yourself?

A. We do analysis, but obviously the primary purpose of Sonar is detect, track, and then classify. It kind of is a competition, I guess I'd call it, with the FT. We try to come up with better solutions than they do.

Q. You are the primary communication conduit to the Officer of the Deck?

A. Yes, sir.

Q. Or whoever is conning the ship?

A. Yes, sir.

Q. You mentioned this competition, which I certainly appreciate, having been there, done that. Do you ever recommend courses or change in speeds to enhance your team relays?

A. Yes, you can, sir. It just depends kind of who is out there on the Conn. If it is somebody very junior then you can help them out by saying a couple of things, maybe this will be a better leg, or this would be a better leg.

Q. So you certainly have an ability to--if all things being equal, at least your input to where--how to drive the ship to optimize your sensor sweep?

A. Yes, sir. I could make a recommendation.

Q. Counsel has already talked about the watchbill. I just really want a couple of follow-ups. You described how you originally had the morning watch and decided to take the afternoon watch, because by the time you secured from the Maneuvering Watch--did you receive anybody's permission to change the watchbill or was that done----

A. I don't remember getting specific permission to take the watch in the second half, sir.

Q. When you are in charge of your Sonar team, be that 3 people, yourself plus 2, or a fully manned Sonar, when you have all your sensors deployed----

A. If I have all my sensors deployed, sir, normally I have a Towed Array Operator, a Broadband Operator, and a Workload Share Operator.

Q. As Sonar Supervisor, can you explain to the court, how you, as the supervisor, rotate responsibilities and then time on the different functions during a normal 6 hour watch?

A. Yes, sir. You normally don't want your operators to be there more than about an hour period. Just because if you are looking at the screens themselves for a longer period of time, you are not going to be as focused if you pass the hour point. You may just want to rotate through.

Q. Normally, when you have a full manned team in there, you have the flexibility to rotate people through, correct?

A. Yes, sir, that is correct.

Q. Now, on the 9th you had two operators, correct?

A. Yes, sir.

Q. Petty Officer Bowie and SN Rhodes?

A. Yes, sir.

Q. Were you able to rotate those people?

A. No, sir. We hadn't had the watch that long I don't think. It was a little bit over an hour, but not that long, sir.

Q. But the same people stayed in the same positions for the entire time?

A. Yes, sir, they did.

Q. As you prepared to take the watch, can you describe for me what you look at--how you prepare yourself to be functional in your position?

A. Yes, sir. Normally, do a pre-watch tour where you go through the Electronic Space in the forward end of the ship, where you check your gear for power supply. You can check the bus transfer to make sure you are getting normal power to your system, looking for blown fuses, anything that is abnormal in your equipment.

Then you come into the Sonar Shack itself to receive a turnover from the Sonar Supervisor at the time. He will give you a turnover of what contacts he's held, what he feels like the environment is, anything that is abnormal that he is seeing or had on his watch. And then, you'll go out and get permission from the Officer of the Deck to assume the watch.

Q. Do you look at the environmental conditions?

A. Yes. Well--environmental conditions, yes, sir. You can review the SVP as you see it in your display in Sonar on the BSY system. And that is part of the turnover when you are getting turned over.

Q. Why is it important to know what the SVP looks like?

A. Because that way you have a good idea of how your ranges are going to be. Is it going to be long ranges, short ranges? If you have a certain layer depth in the water that is very strong it could hide noises coming through that layer if you are deeper than the layer. It just gives you a general ability to sense how far you may pick something up.

Q. On the 9th of February, did you look at the SVP when you assumed the watch?

A. The SVP I did. But I didn't beyond the turnover. That was about the extent. We did not have LE data at that time.

Q. Can you explain what LE data is to the court?

A. That is measuring the noise--the ambient noise in the water to see how loud it is with own ship driving through. So you can use that to reference. If I can hear this far at this level and then if it moves back or forth then you can hear either farther or shorter.

Q. And what affects LE?

A. All kinds of items. Own ship's speed can increase the LE. You've got--you get large sums of biologics in the area that can change the LE. Heavy shipping density can change that LE. If you start getting a very large sea state, that can change your LE.

Q. Counsel, I would like to--I'm going to put up the SVP that was reported on that given day. And when that comes up--and this is part of, I believe, the presentation that CAPT Kyle provided, can you explain to the court as you looked at this, what kind of range--what was going through your mind--what types of things it would influence the way you are operating your equipment?

MBR (RADM SULLIVAN): Can you see that okay?

WIT: Yes, sir.

MBR (RADM SULLIVAN): And, after you've studied it and are ready to talk, just let me know.

WIT: Aye, sir. [Reviewing exhibit.] What it says is the layer is about 400 feet, thereabouts. And being that it is pretty much isovelocity here--not much change in the sound velocity back and forth, that means your sound pretty much has free reign through that space, it's just going to travel as it is going through the water. As you get deeper in the water---

Q. So let me ask--so it means there is not going to be much ray bending?

A. Correct, sir. It's not going to--it is going to be more of a straight path. As you get deeper in the water there is going to be less pressure and that is going to change the way that sound bends through the water.

Q. As far as a surface contact? So, what does that mean? How you are probably more than likely going to detect them as far as D/E's--ranges?

A. Ranges. I am going to have good ranges depending on how loud a contact is. I'm not going to have a problem with that at all. Depending on the water depth, how loud the contact is, I should be able to see that D/E come up.

Q. Is it going to be in the upper D/Es or all D/Es or--
A. Direct path, you'll see in the upper D/Es, sir. In the bottom bounce you'll see, obviously, in the lower D/Es.

Q. Even if the contact was very close? Would you still receive them in the upper D/Es?
A. Yes, sir. You'll still see them in the upper D/Es.

Q. Right. The phenomenon of receiving them in all D/Es probably wouldn't apply in this given ocean? I mean, you can never say never, but more than likely?
A. Yes, sir. Probably--I mean, it just depends--it just depends on that environment at the time. How deep the water is.

Q. Would you look at your equipment as far as operability?
A. Yes, sir. That is done, like I said, on the pre-watch tour. And during the turnover itself you would be able to find out what might not be up to speed.

Q. What was the status of your equipment on the 9th of February?
A. The BQR-22 was tagged out----

Q. Can you explain what you use that analyzer for?
A. Yes, sir. We can use that to analyze contacts, as well as using the Workload Share display, to get the screw blade information or other pertinent information from the contact.

Q. So, it is a tool to use by yourself probably in this situation since you didn't have an AUX Operator to help with classification?
A. Yes, sir. You would have an AUX Operator to analyze the data for you.

Q. Why was it tagged out?
A. It was tagged out because we took Unit 13 out of Control to install a flat panel up in there. And we were in the process of figuring out how to tag out just Unit 13, because if you tag out Unit 13 and Unit 5--Unit 5 is all the input signals and they have the same power switch on the unit.

Q. Again, my recollection is that this is an aid, but it is not vital for you to do classification?

A. No, sir. You--normally you can do it on the Workload Share stack with no more--I think we had--the max was three contacts at a time. That is not hard for a Workload Share Operator to gather that data.

Q. Any other equipment issues?

A. At the time we had two sound velocity heads out of our four that were inoperative.

Q. How does that affect you?

A. With the BSY system you can still take the average of two sound velocity heads. The other two would be averaged in or just taken out.

Q. So it is fairly transparent to your operation?

A. Yes. I mean, we had working SVP data.

Q. Anything else?

A. And the AVSDU, on the Conn, which was a turnover item-- I believe the deflection page was out. I'm not sure which side it was deflecting to, but I was told that it squashed up to one side.

Q. How does that affect you as Sonar Supe?

A. Well, that is something that you would want to fix.

Q. Let's say the decision was made not to fix it, and you are going to operate without it. That is still a safe operation, correct?

A. From the aspect of--in Sonar it is. It is more so for the Officer of the Deck, to help him correlate some of the data that he has out there available. He can see what we are looking at and add that extra element in.

Q. So would you--what would you expect--how would you expect your Officer of the Deck and the team that are helping you with contacts to operate without an AVSDU?

A. They would probably come in more often just to either take glances or ask me opinions about what was happening on the stacks themselves.

Q. Did--was there any turnover about "expect to have the OOD come in here", or of that nature? What things had been changed on how to operate without the AVSDU?

A. Nothing was specifically said on that--the Officer of the Deck or anybody would come in to do that. That is just something you would think would be done, sir.

Q. During your watch, did you see the Officer of the Deck come in more frequently than normal?

A. I don't remember if or when he came in. He could have come in, but it is not something that we don't do most every other watch. You go to the curtain, or he goes to the curtain, and we can talk back and forth. I'm not sure if we did that or how many times we did that, sir.

Q. That relationship with the Officer of the Deck is a very special relationship? You are very--it is very free flowing?

A. Yes, sir. If you have a question or a problem, or you feel something is not going right with what is going on in Sonar, you can go out and address that issue to the Officer of the Deck.

Q. Did you review the Sonar Search Plan?

A. I believe I had at one time. I'm not sure exactly what time I reviewed that, sir.

Q. What type of data--in the situation that you found yourself in on the 9th of February, what kind of data would that help you with?

A. The search plan wouldn't have been run for a merchant or trawler. It is designed for other items. The only thing it could probably help you with is maybe the environment--get an idea of what was going to go on in your environment, as well as with the contact that you were to put in the search plan. You would get a certain range for certain things. And a merchant or a trawler or something louder would be a little bit further, obviously, sir.

Q. Would it help you if you were called in there to set up to go active on your sonar? Would that have helped you at all?

A. On that contact of interest is what you would have run that search plan for. You wouldn't have run it for normal surface contact.

Q. You do some manual logging while you are on watch or your team does, correct?

A. Yes, sir.

Q. What types of things do you log?

A. Any contact data that you can gather on a contact. If it is just a normal surface contact, you have a period that you have to log it. Roughly about every 15 minutes. They could put any amplifying information that you can gather into the logs. If you could obtain screw blade information, then that data we put into the logs, sir.

Q. On your interview with Master Chief Anderson--at least he recorded down on the--about 3/4 of the way down on the second page there, it says, "Log Keeping". He stated you knew that the logs were deficient. Can you amplify that at all for me?

A. Yes, sir. Throughout the day, when I was on watch, we didn't get much classification data on either Sierra 12 or 13. Anytime that I went to look at the display, that does the screw blade, there was no screw blade information there. And so--there should be, but there is none in there. And I think at one time--I think we placed Sierra 12 and 13 into the baffles. And, instead of putting the right indication down as in the baffles, I think he faded them.

Q. So when you mean deficient, you mean you were not able to discern information. It wasn't a case--you figured it out and it wasn't logged?

A. Correct, sir.

Q. I gave you two questions there. I'm sorry. Basically, the information wasn't available to log, correct?

A. Correct, sir. That information wasn't there. But the logs were deficient in the fact they didn't have--we had placed two contacts in the baffles earlier and I think he faded them instead of placing them in the baffles.

Q. So when you were in Sonar, as the Sonar Supervisor, can you explain the physical environment using Exhibit 6? And there's a light pointer--one of these things on your desk, sir.

A. Yes, sir.

Q. Where do you stand your watch?

A. I--now you're going to have to be patient. I don't do laser pointers too well, but I'm gonna try. Okay, the Workload Share Operator's going to be right in here [pointing laser at exhibit] on the first deck for the BSY-1 display. The Broadband Operator is going to be the second stack right here [pointing laser at exhibit]. And as the Sonar Supervisor, I'll fluctuate anywhere from the Doubler 9 back to the broadband stack, like for this case--for the underway.

Q. Okay. How about--do you have a--do you have headsets on?

A. Yes, sir, I do. I have headsets available to me that I can either monitor one or the other stacks by a switch, sir.

Q. Do you cover--did you cover both ears?

A. No, sir. You only cover one ear at a time. Because if you have an open microphone on, or there's a report being made to you through the 27MC, or you want to hear a 1MC, if you have two set--headsets on you may not get that report. Or, if an operator needs to give you a report, you can't get that report. So you can only have one headset on at a time, sir.

Q. So, it's fair to say you're listening to three different things. You're listening to whatever you're listening to on your headset, the sonar system, possibly the open mike, and possibly the 27MC communications?

A. Yes, sir.

Q. You have to be--you're trained to be able to listen to--three different ways, right?

A. Yes, sir, we are.

Q. Okay. Great. I just want to get a sense for the court where--we--your environment as we start into the watch here. If you look on Exhibit 4 there [pointing laser at exhibit], which is the track of GREENEVILLE, and you said you--I believe you came on watch 1130, is that correct?

A. Approximately 1130, sir.

Q. So down this way some place [pointing laser at exhibit]? And if you get--take a couple of minutes here to familiar yourself--familiarize yourself with this track, you can see you come up here [pointing laser at exhibit] and there was some sort of maneuver here--a baffle clear. Pretty much a northerly track until you get into here [pointing laser at exhibit] and do high-speed angles and dangles through here, high-speed turns and then this 340 to 120 baffle clear. Okay?

A. Yes, sir.

Q. Prior to the high-speed maneuvers there was one maneuver here at time--I can't read that time, what does it say about----

CR: 1242, sir.

Q. 1242. What was the ship doing during this period here [pointing laser at exhibit]?

A. I believe we were just driving on steady courses. We did a one leg turn. That's when--like I said, I think Sierra 13 was actually placed in the baffles. I'm not 100 percent positive. I think that's what happened.

Q. Okay. Can you put up the time bearing plotter----

PRES: Could I ask you a question about that?

WIT: Yes, sir.

Questions by the President:

Q. Do you know why you made that turn? Was it because Sonar wanted the turn?

A. No, sir. I'm not sure why we made that turn.

Q. Okay. You were holding several contacts at a time, 12, 13. Do you remember what contacts you were holding?
A. Yes, sir, at that time, it was Sierra 12 and Sierra 13.

Q. Why would they turn to put 13 in the baffles?
A. I'm not sure, sir.

Q. Was there any recommendation to the Conn about the turn, or were you surprised by the turn? Did you know they were going to turn?
A. No, sir, not at that time. I heard the--either the open mike or 27MC, I'm not sure what was--how I heard it, but they were coming--coming over to the west, sir.

PRES: Okay.

Questions by a court member (RADM Sullivan):

Q. Okay. So, basically you're driving to the north during this period. This is only one of the contacts, Sierra 13. I believe Sierra 14 was also to the north, somewhere up to the north.
A. Sierra 14 would have been gained really late in the time line.

Q. Okay. Well, when I look at this, and again this is in the cold light of 5 weeks later, the bearing rate here didn't change appreciably from 1230 all the way through to when you started increasing speed, correct?
A. Yes, sir, that is correct.

Q. But then I compare that to what the ship's maneuvers were during the same period, and I'll ask you for your opinion, did you--the maneuvers of the ship didn't really give you a chance to drive bearing rate on a narrow aspect, did it?
A. No, sir, it did not.

Q. Well, what were you thinking during this time about Sierra 13?
A. At that time when we first gained him and regained him, I didn't have much bearing rate change to the contact. I felt he was distant. I felt that that time Sierra 12, which had a little more bearing rate, was a little bit closer.

Q. But again, in hindsight, would someone up on your bow--fairly narrow on your bow with low bearing rate because the ship didn't drive across line of sight--is it fair to say that distance was probably a guess--more than--had much authority in--of saying it was right?

A. Yes, sir. Looking back at what I see, yes, sir, that was probably why we didn't get much bearing rate on that contact.

Q. And again as soon as Sonar Supe, as VADM Nathman talked about, you have inputs that you could say, "Hey, Officer of the Deck, how about coming left to whatever or come right so I can drive--get some bearing rate on this guy, so I can try to do some analysis."

A. Yes, sir, at that time, I guess Sierra 12 was a little more higher of a concern because of the bearing rate, and I just felt 13 was farther out.

Q. And of course, you were fairly deep at the time, so it's not like you were worried about a contact collision?

A. No, sir.

Q. But, just nature is to work on your situation where as you want to know as much as you can about every contact you have, right?

A. Yes, sir, that is correct.

Q. Okay. During this period can you tell me who was in Sonar other than your watch team? And this was prior to the angles and dangles?

A. Prior to angles and dangles it was just myself, Petty Officer Bowie, and SN Rhodes.

Q. Did you have any communications with the Officer of the Deck, that you can recall, about the contact situation?

A. Not that I recall, sir.

MBR (RADM STONE): I have a question.

MBR (RADM SULLIVAN): Go ahead.

MBR (RADM STONE): Good morning.

WIT: Good morning, sir.

Questions by a court member (RADM Stone):

Q. When we talked to Petty Officer Bowie about the period of time where GREENEVILLE was doing its angles and dangles----

A. Yes, sir.

Q. He talked about a couple of contacts that had increased signal-to-noise ratio. He relates in his testimony that he dutifully passed that on to the Sonar Supe, which was yourself. And then, that--he said the Sonar Supe then took some action he assumed. He thought it was passed on to Control--into the Control Room. Do you recall Petty Officer Bowie telling you about a couple of contacts that had increased SNR and then going into the Control Room and making a kind of report to the----

A. No, sir. I don't recall going into Control and making that report, sir.

Q. The other question I have is a more general question, just related to the term "tripwires" and whether or not--is that a term that you used on GREENEVILLE, and when would it be used?

A. Depending on the situation, you may have tactical tripwires. I don't think I can get too much into the--the--if you're on a station with tripwires, which is normal tripwires for sonar, if you have a high bearing rate contact--you have a very loud SNR contact, a lot of D/E contacts--depression elevations, like down in 6, 7, or 8. Those are some sonar tripwires that we can use in saying that this contact may be closer.

Q. Is there something--some published guidelines that the Commanding Officer gives you, or someone gives you, that says when you meet these parameters, that's a tripwire and report that?

A. That's something that can be addressed depending on the situation you're in.

Q. And for the DV cruise, were you operating under any standard tripwires?

A. My normal--just my normal tripwires in Sonar for the different things--a high bearing rate, something on the left drawing right, very--numerous D/E's, 6, 7, or 8, very high SNR contacts.

Q. What's the high bearing rate tripwire for just a normal DV Op that you're operating under?

A. If you get a bearing rate of like 3 or 4, that's relatively high, sir.

Q. And you're required to report that to someone?

A. I would report that, sir.

MBR (RADM STONE): Okay, thanks.

CC: Admiral, before you continue, I just wanted to clarify one point.

Questions by Counsel for the Court:

Q. Petty Officer McGiboney, I think you stated you don't recall whether or not you made a report of high SNR on two contacts to Control.

A. Yes, sir.

Q. Do you recall Bowie telling you that he had two contacts with high SNR?

A. No, sir, that's something that would probably stick out in my head. If he had a high SNR contact it would register pretty hard.

CC: Okay, thank you.

Questions by the President:

Q. Actually, if I recall the testimony, Bowie said, "I think the SNR was like 11 or +11 or +12," which I think is--you'd take as a moderate SNR. Is that considered a high or a moderate or----

A. I'd say a high moderate, sir. Moderate for me is about like +5 to 8 down to about 0. So, nothing--you get higher than that's going to be highest.

Q. But, he would have reported the SNR in terms of the scale and not of a--he wouldn't have said high, low, medium? Would he have said, it's a +11? Would he have reported it that way? How would he have reported it?

A. Dif--I'm not sure exactly how he'd report. He could just say he had a high SNR. I could look at the screen and go from there, sir.

Questions by a court member (RADM Sullivan):

Q. Just talk a little bit about SNR since the Admiral's are discussing it. What's your feeling about using SNR as a ranging detection--clue?

A. SNR has many, many variables to it. It depends on how loud a contact is, the angle he may be presenting you, how far away it is, the--your level of noise in the water to see how far that's going to travel. Just for a number itself, it's probably not a good judge of range, but it can give you aids if you have other items available for you.

Q. Right. So, what I recall is, it's an indicator, but not one you put a lot of weight into?

A. Correct, sir.

Q. The change over time is probably the better----

A. Yes, sir. If you see over time an increase SNR or a decrease in SNR, that can give you some data.

Q. Okay, great. Alright, to re-orientate you, I want to--we're about ready to start the angles, which is about, I guess, 1325 there.

A. Yes, sir.

Q. How did you feel about your situational awareness of your contact situation prior to the--starting the high-speed?

A. The two contacts I had at time Sierra 12 and 13, I felt were both distant contacts. Sierra 12 had a little more bearing rate than Sierra 13, but neither one of them had a lot, neither one of them were very loud and they were all appearing in the upper three D/E's.

Q. Why would it be important to have a good handle or understanding of your contacts prior to high-speed operations?

A. Well, if you feel somebody's--if you're-if you're going to stay underwater and you're just going to do high-speeds, you're concerned about roughly where they're at because you don't want to run up underneath them. Let's say if you want to do a large up-angle, you're not going to drive up towards one of them and not have a good idea of where he might be.

Q. And how about your ability to detect sonar contacts when you're at high-speed?

A. Depending on the speed you get to, that trackers going to--or that trace is eventually going to fade away, or get very weak to where it's going to be hard to track that contact.

Q. So you effectively not only run the risk of possibly losing depth control and getting to the interface of the ocean, which really as Sonar Supervisor isn't your concern, but you're also--you're awareness of your acoustic picture shrinks.

A. Yes, sir, it does.

Q. During the maneuvers--high-speed angles, was there anybody else in the Sonar Control space besides your team?

A. During the--not during the angles, it was during the turns. The high-speed turns is when two different people came in.

Q. Okay. When you slowed--when the ship slowed after the high-speed turns, how did you feel about your situational awareness of your contacts?

A. I felt they were still distant and was getting that data as we were slowing.

Q. So, you still felt pretty good about it?

A. Yes, sir, I still felt they were just contacts.

Q. The ship slows and proceeds to 150 feet to prepare to clear baffles?

A. Yes, sir.

Q. What reports did you hear on any of your circuits for preparations to come to periscope depth?

A. I'm not sure how I heard how we were going to periscope depth, if it was an explanation of what we were doing or, if it came across the 27MC. I believe I heard it turn--that we were making a turn and we were making preparations to do our baffle clear. And I think there was an explanation of the periscope depth approach.

Q. How is that typically done on the GREENEVILLE?

A. Normally you would have a periscope depth brief where everybody would come to Control to find out what the evolutions are going to be during periscope depth.

Q. During the baffle clear, did you provide any recommendations to the Officer of the Deck for baffle clear? Direction based on your contact situation?

A. No, sir, I did not. We had both contacts to the north- northwest, and there was--I did not go out there and say, "I think we should come east or west for that."

Q. Did you think about it, again, this competition between you and the Control Room?

A. I'm probably pretty sure I did, but that would have been just one of the things I think about as I'm getting ready for the baffle clear.

Questions by the President:

Q. Did the Officer of the Deck or anyone on the Conn come into Sonar just prior to doing those turns to see if the game plan--if the turns to build TMA was a good game plan? Was there any consultation? Was there--did the Officer of the Deck or the Commanding Officer come into Sonar before those turns to find out if they were going to be good for sonar analysis?

A. They may have, but I'm not sure. I don't remember any dialogue between anybody for that. I didn't memorize any of that.

Questions by a court member (RADM Sullivan):

Q. From previous testimony, Petty Officer Reyes showed up sometime about now and you asked him to help you out. This is what he's----

A. Yes, sir. Sometime during the end of the--I'm not sure which high-speed turn it was, near the end, he came in and I just asked him to go over and stand by Petty Officer Osh--I mean SN Rhodes.

Q. Why did you do that?

A. Another set of eyes getting ready to go to periscope depth can't hurt, sir. I didn't assign him as an over instruction. I didn't assign him as anything different, just to go over there, sir.

Q. But just--I mean you've got to search your soul here. Why? Was it because you felt overloaded? I'd just go through some possibilities.

A. No, sir. I didn't feel overloaded. SN Rhodes wasn't qualified. He can't operate the stack. He can do baffle clears. He knows how to read a screw blade display to get that information off, it was just putting more people in there to take a look.

Q. So I guess--let me--these are my words, but that way at least you wouldn't have to look over--pay as much attention to what Rhodes was doing because you had someone else helping you out in order for you to do your job a little more freer?

A. It frees me up a little bit, but I can still watch both stacks at the same time with him there or not there. I can still watch what is going on.

Q. Okay. Now, during the baffle clear, 340, then moved over to 120.

A. Yes, sir.

Q. Was anybody else in the Sonar Control space?

A. Yes, sir. Just before, I believe Petty Officer Reyes came in, the XO had come into Sonar. I don't recall any long discussions. He was there, it made sense. I didn't ask why he came in, but I knew the AVSDU was out and that's something that could justify doing what we were doing.

Q. It's another set of eyes too.

A. Yes, sir.

Q. Did you have any interactions with him?

A. I don't recall any full discussions of what we talked--he came in--I'm pretty sure I had talked to him about something, but I didn't--it wasn't a full lengthy discussion.

Q. Was there any--did he give you any direction?

A. I don't believe so, sir. I don't remember any.

Questions by the President:

Q. But, there was no discussion as to the quality of legs or courses that should be used for building TMA?

A. Not that I recall, sir.

Questions by a court member (RADM Sullivan):

Q. During this maneuver, were you able to do any ranging?

A. During the baffle clear, sir?

Q. Yes, in Sonar.

A. The only thing that I really did was try to look at some of the bearing rates that I was getting, to see if I could do just some--I think people call it different things, but I call it sonar karate, just basically seeing where he is going roughly and getting the bearing rates to see if I can come up with a range. But I didn't see much change in the two bearing rates or the two contacts to give me anything different than I already had.

Q. If you look up on Exhibit 7 here [pointing laser at exhibit], this is SLOGGER data, it's not what you saw, but it's a representation of the waterfall that you would have seen on your passive broadband. And up aft--this is the 140 leg, where this large right bearing rate is--excuse me, 340 leg, where you came up from deep. Looking at this, and again, look at the scale, so you can orientate yourself. What's your opinion of that bearing right there [pointing laser at exhibit]?

A. That is a pretty high bearing rate, sir, that's something that I could have seen, looking at this display, pretty easily.

Q. So that would alert you to something?

A. Yes, sir, that is moving pretty good, sir.

Q. Why do you think you didn't see that?

A. I'm not sure, sir. I mean, that should have been something that--been--it should have just jumped off the screen.

Q. In your experience with the BSY-1 system and its passive broadband capability, as the ship is changing depth and slowing up, and possibly changing course, how does that affect your displays?

A. It is going to take a little bit of time for the system to orient itself to get proper tracker data for what you are looking at. Just before that leg, we had gone back and forth, obviously numerous times, and that kind of just makes your display--I call it spaghetti.

You've got lines in all directions from how the ship's driving. Contacts are kind of fading in and out and then you have got to let it get to that set point again.

Q. Okay, so what makes that display easy for you to interpret?

A. Constant speed, course, and depth.

Q. How about time?

A. And time also helps, sir.

Q. Were there any communications with the FTOW at this time?

A. No, sir, not at that time. I was farther into Sonar. I had--I think--I think Reyes was beside me and I think the XO was closer to the door, but I'm not sure. I believe it was Petty Officer Reyes that was next to me, sir.

Question by a court member (RADM Stone):

Q. I just wanted an amplification again on the a--when you asked Petty Officer Reyes to come in and look over Rhode's shoulder. You mentioned that that is indeed an extra set of eyes. Is it also fair to say that one of the other factors was that because you knew Rhodes wasn't fully qualified, and in view of what you were doing, you wanted to make sure you had a qualified person there?

A. That is also true. This is as--VIP--or the cruise for that, it can't hurt to have that extra look as well as him being the under qualified, somebody looking over his shoulder. Just more people to look at the data that is available.

Questions by a court member (RADM Sullivan):

Q. As you're preparing to come to periscope depth, did you report sea state--acoustic sea state to the Control Room?

A. No, sir, I did not. Normally, when you do a periscope depth brief is when the machine is going to get turned on. You go out there, do a brief, you come back and you turn the machine off and that gives you your sea state. You can also, at the same time, pass out, if available, the direction of seas.

Q. So why do you think you didn't do that? I'm just giving you----

A. We went right into a baffle clear.

Q. I mean, why didn't it happen on the 9th?

A. The periscope depth brief?

Q. Why you were unable to figure out the acoustics sea state and report sea state?

A. Like I said, normally we have a brief, and that's when the system would be turned on to get the wave height. You come back in, you turn it off, and you can pass that information out.

Q. So, again, I don't want to put words in your mouth, but you're telling me when an Officer of the Deck says, we're going to go to periscope depth, conducts his brief, there's certain things that automatically you do or you kick into that you do as part of your routine?

A. Normally it's requested, sea state and direction of seas, but that is something that we just do.

MBR (RADM STONE): Can I have the watchbill for 9 February put up, please, for us to take a look at? We'll get to the watchbill later, RADM Sullivan wants to continue here.

MBR (RADM SULLIVAN): Even Admirals have a hard time communicating among their team here.

Q. So, during this baffle clear, Petty Officer--Master Chief Anderson wrote down here a sentence on Page 3 of his report, that attributed to you that there was not adequate time to see bearing rate develop to the point that caused undue concern.

A. No, sir. I did not see any strong bearing rates that would have said that something was close.

Q. You have obviously done this evolution many, many times.

A. Yes, sir.

Q. This seemed--or can you give me your opinion on, is it normally done at this pace?

A. It depends on the proficiency of who's out there. Somebody that is more junior is going to take more time, so they can take that data in vice somebody that is more

experienced that can do it quicker because they can put that data around faster.

Q. Did you feel, at the completion of the baffle clear, comfortable with what the contact situation was?

A. I thought I had approximately about 3 minutes each leg to get the data that I needed, sir.

Q. So, you had no qualms about recommending it pass--ship proceed to periscope depth?

A. No, sir, I just felt they had--I had the time.

Q. Moving ahead to the ascent to periscope depth, how did you know that the ship was going to--started into its ascent?

A. I'm pretty sure that I heard it over the open microphone that the ship was all stations, Conn, proceed to periscope depth, that's when you know you are on your way up. That's when I had my operators chang--when they hear it, they usually automatically do it, change to a two time history from the three time history.

Q. And what are you doing in there, as Sonar Supervisor, on the way to periscope depth?

A. As you hear the words "proceed to periscope depth", you're going to take a quick look at the WLR-9 just to ensure there's nothing on the WLR-9 for detections or tic-marks over active signals. And, then you're focused off the bow approximately 40 degrees either side to ensure something won't come into that section. Normally, one operator is in the top D/E and the next operator is in the D/E right next to it, so the number one and number two D/Es.

Q. But, it is fair to say you're concentrating--looking for a potential contact that might be close aboard?

A. Anything that could be some noises from that that would be a potential threat to the ship that's in front of the ship, yes, sir.

Q. According to the standard procedures, if you felt the ship was in danger by a close contact, what would you do?

A. I would call out a close aboard contact either because the D/Es--I would give a bearing left drawn right, I'd call something out to that effect, sir.

Q. Have you ever had to do that in your experience?

A. I have. I think it was during our last WESTPAC. We were going to periscope depth and there was a strong layer and I had an opportunity to call one out, but I can't remember any others off the top of my head.

Q. And when you called it out, what did the ship do?

A. Proceeded back down, instead of going to periscope depth, it came back down. There was a second time, we did another dependent's cruise--not a dependent's cruise, another VIP cruise, off approximately the same area. We came in and I guess there was some boats up north of us, and we got to see some fish finders from those contacts. I don't remember if it set off the WLR-9 or not, but there was at least, I think, two fish finders. It was another type of cruise like this one.

Q. And a fish finder is a high frequency active----

A. Yes, sir. If you get one--a fish finder, that means he's going to be relatively close. You need to go back in a different direction and do something again.

Q. Can we talk a little bit about that? Was that the only indication you had of this fisherman out there, if you recall?

A. I believe they were both just sitting in the water and that's how their primary detection on that was.

Q. So they were actually dead in the water?

A. Yes, sir. If I remember correctly, sir.

Q. That was--was the XO still in the Sonar Control space during the ascent?

A. I believe he was in for the baffle clear and the ascent to periscope depth, but I'm not sure at what time he left after that.

Q. When the ship got to periscope depth, did you hear anything from the Control Room?

A. Yes, sir. What you're listening for is obviously, no close contacts, that let's your operators go back to a three time history display. And then you're listening for no visual contacts just so you can kind of get a range--a rough range, not a real solid range, on how far something might be. It may help you out with a range to a contact that you might have.

Q. During your statement to the preliminary board, it says here [reviewing exhibit], you got it in front of you there, about 1/3 of the way down on the first page, the CO gave the order to proceed to periscope depth. Was that correct or what made you write that?

A. I believe that's who called that out. I'm not positive, sir.

Q. Okay. It says you classified the contacts as merchants?

A. It would have been classified surface contacts just by nature of sound. I didn't have anything to go beyond that, sir.

Q. Okay, great. You heard no close contacts. Did you hear any other reports from the periscope stand?

A. I believe we were coming up higher, but I couldn't tell you the depth we came to, and then I heard after that no visual contacts.

Q. And, what does that mean to you as a Sonar Supervisor?

A. That the contacts I have currently are not inside the visual realm of what they are seeing, they're not seeing the contacts I have.

Q. And, how far do you think you can see?

A. Just a rough guesstimation, about 5,000 yards, but that depends on the height of the boat--all kinds of items.

Q. Yes, but is there a sense in Sonar you made it safely----

A. Yes, sir----

Q. What's going through--what do you do with your sonar displays and what do you--your psyche, what are you thinking about?

A. When I hear no close contacts, that means that I can go back to my normal search on my display and then go back to the three time history. When I hear no visual contacts, that kind of lets me correlate that range to see if my contacts are fitting and if they don't see my contacts, already think they're outside of 10,000 or 15,000 yards, then okay, I've probably got a decent range on those contacts.

Q. You're feeling comfortable?

A. Yes, sir.

Q. How about the other members of the contact management team? FTOW, did you expect him to have the similar kind of thing?

A. I would think so, sir.

Q. Once you're at periscope depth and you're the officer who is looking through the periscope that's searching for contacts, are you able to help him at all?

A. You can. We've had a PERIVIS screen in the shack. We didn't have one currently at the time. I believe somewhere in San Francisco, before or after, our radios didn't work and they needed it in there and I'm not sure what they used theirs for. But, if I can correlate the bearings that they are looking at and watch PERIVIS to help me classify a contact, but I don't directly, unless asked what's your best bearing true contact, that's normally done through fire control because they have the same display that I would have, and they can verbally communicate that.

Q. Okay. So, if the periscope operator is looking for assistance, you're providing the data, but he's interfacing with the FTOW?

A. Yes, sir, usually it is the Fire Controlman.

Q. Did you hear any of that type of discussion on the 9th during this evolution?

A. It's not something--it probably occurred, but it's not something that I'd be listening for through the open mike.

Q. Okay. While at periscope depth, was there anybody else in the Sonar Control space besides your team?

A. No, sir, not at the time.

Q. Was the XO still there? Had he left?

A. Like I said, somewhere after we made it to periscope depth, I believe, is when he left. I am not sure exactly what time.

Q. When emergency deep was announced on the public address 1MC, did you know that it was coming?

A. I think I had read it on the Plan of the Day. I think it was announced, I think, over the 1MC, but I'm not sure. We heard emergency deep and that's when you--usually there, shortly after, you hear it for whatever reason. If it was for training, if it was for a close contact, whatever it is there is usually a reason to follow. I don't remember hearing that. Just kind of listened to the open mike to see if there is discussions about something. There wasn't, so I assumed it was because we needed to get down deep to conduct our evolution.

Q. I might have asked you this, but there was nobody else in there, no DV's during this part of the---

A. No, sir.

Q. Did the FTOW, Petty Officer Seacrest, did he talk to you at all during this part of the evolution?

A. Not that I recall, sir.

Q. So you really never did a face-to-face communications with him?

A. No, sir. The only thing that I had asked when we were--and I think it was on the second leg, I asked Petty Officer Reyes to go out because I did not--the previous watch had a Sierra 10 that had a very high bearing rate one direction and then the other direction, so his range wasn't far and he was out towards the southwest. I didn't know what they had for range or roughly where he would have been, so I asked him to go out there and take a look at that contact to see what he felt for that.

Q. During the time you've been on watch, as I walk you through this, did the Skipper ever--did he come into your Sonar Control space?

A. I don't recall, he could have, but I don't remember. It wouldn't have been a long stay, sir.

Q. Okay. How about Mr. Coen when he was Officer of the Deck?

A. The same thing. If he came in--it's not uncharacteristic for somebody to come in and ask questions and leave. I didn't memorize everybody that was coming through, unless they came in and stayed for a period of time.

Q. Okay. You're back down to 400 feet below the surface, did you have any contacts when you were going deep again? Did you maintain contact with your contacts?

A. At that time, somewhere--like I said, somewhere in there we gained Sierra 14, I believe. I'm not sure if it was the very tail of the first leg or on the way to the second. I'm not sure. We had Sierra 14 and Sierra 13 when we got ready to come left and get ready for the emergency ascent.

Q. And during your--at least the statements I read of Master Chief Anderson, they didn't--those two contacts didn't interfere with each other.

A. No, sir, they were far enough apart.

Q. When you came to the surface and had the collision, what did you hear?

A. As we were coming up, there was discussion, and I think it was on the LMC, talking about the different angle of the boat vice the front height of the boat and the bottom height of the boat. It wasn't a long discussion, it was quick, and then it was an explanation of "this is what you should feel" or "we should be now lifting through the water," something to that effect. I'm not sure exactly how it was worded. And that's when I noticed that the boat wasn't coming through the water, it kind of angled downward a little bit. It seems strange because--and these are quick thoughts going through my head because it wasn't a long, long period of time. It was strange because it didn't make sense for anybody to push down on the planes to create that effect. Not longer than I could have thought that is when I heard the first boom and then we finished coming up all the way and that's when I heard a second boom. At that point, I thought we had hit something that was sitting still in the water because none of the information that I had correlated to anything that should have been close. I should have had a WLR-9 lighting off from a fish finder. I should have had numerous DE's, the SNR on a close contact is high out there in numbers, it should have been very evident.

Q. So, you were clearly surprised, as I assume everybody else onboard was?

A. Yes, sir.

Q. With the fact that you went up and the ship--looked through the periscope to verify visually the surface, did that factor in your surprise here? The fact that there was somebody that close?

A. The thoughts that went through my head was, we didn't track anything that gave me an indication of something very close, we just did a visual. It didn't make sense that there was something there that we could have hit. I mean, the first impression was, okay, we hit something that was dead in the water because I didn't have any indications that something was on top of me.

Q. And now that you've had, obviously, 5 weeks to think about this, and I know you've been thinking about it for awhile, what went wrong? Why didn't you hear this guy? Why weren't you able to discern his close range?

A. Knowing some of the data that I have seen on this, and I think it was the NTSB interview, I don't think we had enough time. I thought we had enough time on the first leg. If we had a little more--just a little more time there, I think we would have been able to really see that bearing rate. Beyond that, everything else was available, but maybe other legs, we could have turned left. There's numerous things we could have done, but that's looking back. During the thing, I felt like we were doing what we needed to do.

MBR (RADM SULLIVAN): Okay, thank you. I have no further questions.

PRES: RADM Stone, some questions?

MBR (RADM STONE): Yes, sir.

Questions by a court member (RADM Stone):

Q. Good morning. I've got some questions about the watchbill for 9 February that I'd like walk through with you.

A. Yes, sir.

Q. We talked earlier here this morning about common practice and I'm interested in a little discussion here about Rhodes, and the fact that he was unqualified to stand without continuous monitoring. And, you mentioned that it was common practice, so I take it you personally think that was a good idea based on some discussions that you've had with folks onboard the boat. Were you supportive of that idea that it would not be a requirement for a continuous monitoring?

A. When I first checked aboard, there were different COs--all kinds of different people. But, I addressed to the Chief when I was re-qualifying Sonar Supervisor for this boat, that it stated in the guidelines that you needed an over instruction for the watch. His comment was we have enough people on the stacks, as well as when you're training that you can do that. You don't have to put them right on broadband, but that's how it was done. And, I went from there with that and it's been about a little over 3 1/2 years.

Q. Okay. And, you're familiar with the underway watchbill for the 9th of February, or at least when they're promulgated what the document looks like?

A. Yes, sir.

Q. I wanted to talk to you about all these people. Is your signature anywhere on the watch--all these people that review and then ultimately approve, you don't sign the watchbill do you?

A. No, sir, I don't.

Q. You provide verbal dialogue in terms of how it might be done, but there's no----

A. Correct, sir. I would talk to the Chief or the Leading First.

Q. Okay. So, when you see this document come out, the Chief of the Boat reviews it and other key players onboard, and my understanding has been from Fleet operations. All those people are looking at it from a perspective of does it comply with the Type Commander's regulations, is it safe, is there proper backup, those are the standard ingredients, and then only one person here approves it, everybody else is reviewing it. Who approves onboard GREENEVILLE, the watchbill; therefore, it becomes a directive. Who is that on GREENEVILLE?

A. That's the CO, sir.

Q. So when you get that as a First Class Petty Officer, is this a guideline or is this that the directive on how to stand watches on GREENEVILLE? Who's to stand them?

A. That's supposed to be who stands the watch, sir.

Q. Okay. Are you aware, through any dialogue that you've had with folks onboard GREENEVILLE, that--usually if there's going to be a deviation from the Type Commander's requirement--if the command feels that even though the Type Commander says that you need a certain person qualified on a watch, there's a process in which you go back to the Type Commander and you say, "I think that requirement is improper; and therefore, here's a message or letter that says that that requirement ought to be changed and that watchstander ought not to be required to be continuously monitored." In other words, there's a process there for Commanding Officers and boats and ships to go back up to higher authority and say, "We think that requirement is incorrect." Are you aware of any documents that left GREENEVILLE to tell the Type Commander that that should be changed?

A. No, sir. I am not aware of anything like that, sir. I'm sure there'd be documents to govern that, but I don't know if anything was ever sent off the boat for that.

MBR (RADM STONE): Okay, thank you very much.

Questions by the President:

Q. Petty Officer McGiboney, how many times have you gone to periscope depth on the GREENEVILLE?

A. I have no idea, sir, a lot.

Q. Okay. How often do you conduct the periscope brief--the preparations to go to periscope depth brief?

A. I would say nearly all of them, sir, but I'm sure there's a few that we didn't, but----

Q. But, the accepted standard or the accepted practice on GREENEVILLE, that you typically did the brief?

A. Yes, sir.

Q. You testified earlier you didn't turn on a piece of gear because it was your habit--I understood it to be kind of like your habit pattern, that you'd turn on that gear--you'd have the information and----

A. Yes, sir, because normally, like I said, when you get called to the Conn for the periscope depth brief, by the time the brief is over, you can come back and your information is sitting there.

Q. Okay. Tell me about your coordination with the FTOW, Fire Control Technician of the Watch, how during that period of time, say the last hour, hour and a half of the watch, how often do you guys collaborate on contact information?

A. What I've normally done is, if I've had a question or a problem with the range where I didn't--I felt something was closer, than I would go out and tell the FTOW and say, "Well, what do you got on this guy," and we'll kind of compare notes to see where we're at. The last EASTPAC, I had a different FTOW, and if he got anything close, he would come in and tell me. I'd assume that's kind of a general practice for----

Q. Yes, but how often did you do it in the last hour and a half with the FTOW?

A. I have no idea, sir. I--I don't know if I went out there or how many times I went out there, sir.

Q. But did you go up there and talk to the FTOW?

A. I don't remember, sir, it's nothing that I'd put my head on. I could have, I don't remember.

Q. Do any collaboration on Sierra 13?

A. Like I said, I don't know what discussions I held with the FTOW.

PRES: Could I have the exhibit back up of the track of the sonar contact of Sierra 13?

[LCDR Harrison did as directed.]

Q. One of the understandings that I've come to about the Sonar Shack and the way the watch teams work on a submarine in terms of situational awareness--that's a--does situational awareness makes sense to you? What we're talking about there the--you know--what does the picture look like for the boat----

A. Yes, sir.

Q. Is that typically the Sonar Shacks would try and drive independent solutions, does that make sense to you when I say that?

A. Yes, sir, as part of that--the competition thing, we try to come up with a better solution.

Q. Okay. And what do you mean by "in that solution?" In terms of contacts, what type of solutions are you trying to come up with?

A. You're trying to come up with that--the range, a course and a speed. If you get certain things, it will help out a little bit. If there's screw blade information, that will give you an idea on rough speed for a contact. When you're doing, what I call the sonar karate, you're trying to get that range or the solution down to the contact. You're trying to figure out what the overall picture is.

Q. Alright. Well, let's talk about this period of time then. You came on watch at 1130?

A. Yes, sir.

Q. And you had watch up to the collision of 1343, 42? You had this long leg of Sierra 13 here, and my understanding of previous testimony, that this looks like a low bearing rate or low drift on a contact?

A. Yes, sir.

Q. Okay. So, that could either be a contact that's a long way away, is that correct?

A. Yes, sir.

Q. Or it could be a contact that's on a steady bearing? It could be something that's on a collision bearing?

A. Yes, sir.

Q. And if you look at the old tracks--if you look at here's the EHIME MARU [pointing laser at exhibit] and here's GREENVILLE [pointing laser at exhibit], if it's not long way away and it's one like this on collision, that's a scenario, so that's exactly what happened, didn't it?

A. Looking back I can see how it happened.

Q. Well, let's talk about building that situational awareness in the Sonar Shack a little bit. You said you did not collaborate with the Conn on this turn.

A. I don't believe having a discussion of driving the boat, no, sir.

Q. Okay. And you said that--I think it says "fades" here, but Sierra 13 fades, but do you--to your recollection, you said it was a--in the baffles?

A. I--I believe it went into baffles, sir.

Q. Alright. Now why--why would a--the Officer of the Deck doesn't have an AVSDU, so he can't see the bearings of the--tell me if I'm wrong, but he can't see the bearings of the contacts right now?

A. I believe he can on the fire control display, but he can't see the raw data that I'm seeing.

Q. Okay. He can't see this kind of data [pointing laser at exhibit] on the--the waterfall or----

A. Correct, sir.

Q. On the AVSDU, you have that kind of piece here [pointing laser at exhibit]?

A. Yes, sir.

Q. So you had very few contacts at this time. You had Sierra 12, 13, Sierra 10 was old--an old faded contact.

A. Old faded contact, yes, sir.

Q. So you had maybe two, maybe three contacts?

A. Just two contacts at that time, sir.

Q. Well, why would the--any idea why the ship would turn to put one of those contacts in the baffles?

A. I'm not sure, sir.

Q. Okay----

A. I--my higher interest contact at that time was 12, that's a good leg for Sierra 12, it gave me some change.

Q. Okay, so it was a good leg for 12, but not necessarily for 13.

A. Correct, sir.

Q. Okay, good answer. So, now let's talk about--that's a fairly long period of time, in my view. I mean it's 1230 to 1325 or so. Was there any attempt by the Sonar Shack to build assay on 13 by suggesting to the Conn a course to go to?

A. No, sir, not that I can recall.

Q. Okay. Do you recall why you didn't make any recommendations to build your own assay in the shack?

A. I knew we had to head north, but I--we just didn't make any suggestions.

Q. Was there any collaboration with the Officer of the Deck on--on a way to build a better assay--a range? I mean, because you know you have a contact? You have a contact here and you know you have a certain bearing, and you have very little bearing drift. Was there any other way of--so, to my knowledge you got to do something. You got to do another TMA leg or something if you want to build range in on this guy. Is that right?

A. That's correct, sir.

Q. Okay. Do you know why you didn't pursue that or the Officer of the Deck didn't pursue that?

A. I'm not sure. We had small turns, but nothing that could help out with a good leg, sir.

Q. Okay. So, is it safe to conclude that the boat as a team wasn't particularly aggressive on building information about Sierra 13?

A. It would be a fair statement.

Q. Okay, and you only have two contacts, so it's kind of like what else do you have to do?

A. There wasn't much to do, sir.

Q. Alright----

A. On that first--first bit.

Q. Now again, this is--this is a period of angles and dangles, but it's also a period of high-speed. I think you did the ups and downs first and then you did the high-speed?

A. Yes, sir.

Q. When you go to high-speed, what happens to your ability to do passive sonar ranging?

A. The passive sonar ranging is pretty much gone because you're driving the boat left and right----

Q. Alright----

A. A lot and you're going to have the contacts fade in and out on your screen.

Q. Okay. So, going any of those, you really don't have a range on Sierra 13, one of--one of two contacts that you have, you didn't have a range on either contacts, I believe, right? Either 12 or 13?

A. I just felt they were distant on that----

Q. Okay, you felt they were distant, so that is kind of an indication of range?

A. Yes, sir.

Q. Okay. Now is this--this seems to me you--there's very little data in here and the data that you have seems to be maybe incoherent. It's--there's some of it, but does this help you right here, this data [pointing laser at exhibit]?

A. No, sir, that's, like you said, when you're moving back and----

Q. Is that noise? What is it?

A. That's a bad track if that's a tracker, sir.

Q. Okay. So what I see out of this, as the ship comes out of these turns kind of blind again to what the--you've gone fast, now when you come out, you have to rebuild your situational awareness because you've given--whatever you knew before, except for the history of these tracks, you have to start all over again, right?

A. Yes, sir.

Q. Okay. Did you feel like you spent sufficient time in building your assay again here before you went to periscope depth?

A. Yes, sir. I thought I had about 3 minutes on my first leg and I thought I had about 3 minutes on the second leg, and that would give me an opportunity to get some information.

Q. So you sensed, at the time, you had--you had time?

A. I thought I had enough time, sir.

Q. Do you know what the actual leg was on 340--the length of time on that leg?

A. All I've heard is that it was shorter.

Q. Alright. What would you say--TMA is a very important analysis tool for--for the Sonar Shack?

A. It--it helps with the solutions, obviously, in the Shack, it helps get that picture of what's going on. You want all the operators to participate in getting that information as well because that helps you build a better picture too.

Q. Did--when the ship safely made it to periscope depth and you got the report of no close contacts, did that validate your assumptions about Sierra 13 about being distant?

A. It just made me feel more comfortable that my range is--are a little bit better. Like I said, I felt they were 10,000 to 15,000. They were out--outside of being close, and that helped me say, "Okay, then they're probably good ranges for those contacts."

PRES: Alright.

CC: Sir, I have a couple follow-on questions.

Questions by Counsel for the Court:

Q. Petty Officer McGiboney, you talked earlier about a previous incident with a fishing boat that was dead in the water that had a fish finder.

A. I believe that was a Coast Guard boat or two Coast Guard boats.

Q. Okay. Could you describe that incident again for the court?

A. We had done, if I remember right, we did one leg--it was, I think, on the second leg, we were headed more towards the north. You started seeing fish finders. I

believe there were two different ones on the WLR-9 at two different bearings. As soon as you see that, you call out, "Conn, Sonar, have fish finders, this direction," and then that way they can reassess. And, I don't believe we had any demonstrations there. I do believe they were dead in the water, if I remember right.

Q. Okay, and this was before you came to PD in that case?

A. Yes, sir, and you're not going to go to periscope depth.

CC: Okay. That's all I have, sir.

PRES: Counsel for CDR Waddle?

Counsel for CDR Waddle, party (Mr. Gittins): Yes, sir.

CROSS-EXAMINATION

Questions by counsel for CDR Waddle, party (Mr. Gittins):

Q. Petty Officer McGiboney, my name is Charles Gittins. I'm CDR Waddle's civilian attorney.

A. Yes, sir.

Q. You indicated earlier that you talked to the NTSB?

A. Yes, sir, along with a lot of other people, sir.

Q. Was CAPT Kyle present for your NTSB interview?

A. I believe for most of it he was. I think he came and went, but I'm not sure what percent of time he was there.

Q. Did he discuss with you facts about the ships' movement? Did he tell you about TMA legs or anything like that?

A. I don't think he talked about--he was really getting information about what I did. How I did it. I don't remember talking about TMA legs, sir.

Q. For how long did you talk to the NTSB?

A. It was over, I think, a 2 day period. I got--I think I was like the last hour one day and then I finished the next day. I explained a lot on sonar and how it worked. I think that's why it took awhile, sir.

Q. Do you remember when that was? What date?

A. I can look on a planner, sir. I've got it written down somewhere, but I don't have it with me, sir.

Q. Okay, maybe if we take a break--do you have your planner with you?

A. It's here in the building, sir.

Q. Maybe when we take a break you can do that for me, okay?

PRES: Counsel, do you want it now because we can recess in place and ask him to go get it?

Counsel for CDR Waddle, party (Mr. Gittins): No, sir. I think my examination is going to be long enough that we're going to get to the break.

PRES: Okay.

Q. You indicated that on the 9th of February, you were not scheduled for the afternoon watch, correct?

A. I would say that's correct.

Q. You said you did not have permission to change the watchbill, I think in response to a question by RADM Stone?

A. That is correct, sir.

Q. Did you receive permission to assume the watch from the OOD?

A. I believe I did, sir.

Q. That would be the normal?

A. That would be normally what you do.

Q. What was the reason you decided to take the afternoon watch rather than Petty Officer Holmes?

A. He just had the Maneuvering Watch. It was a very short period before you would have lunch. I'm not sure of the exact time, an hour or so. So, I felt that I'd just take the second half watch since he's already stood most of the watch already, or the morning set.

Q. And the Maneuvering Watch would be a separate watch from the normal watchbill--the watch set by the watchbill?

A. Yes, sir, it's a separate watchbill.

Q. So, if he would have stood the scheduled watch, he would have ended up standing the morning watch and then the afternoon watch, is that right?

A. And the next Maneuvering Watch, yes, sir.

Q. So he would have been on watch basically all day?

A. Yes, sir.

Q. Did you think there was anything unsafe about what you'd done?

A. As in relieving the second watch?

Q. Right.

A. I actually felt it would be a little bit safer, it gives him time off.

Q. And, you didn't have to do that, did you?

A. No, sir.

Q. That's just helping out a shipmate?

A. I guess so, it just gives him more time off, sir.

Q. As you just said, he had been on watch for awhile and you were actually providing him some backup, wouldn't you agree?

A. Yes, sir.

Q. You indicated also that once you assumed the watch you had--SN Rhodes was on watch?

A. Yes, sir.

Q. You knew that he was a "not qualified" watchstander, correct? Not fully qualified watchstander?

A. Correct, sir.

Q. When you say "fully qualified," you're talking about somebody who's got all their requirements satisfied, they've had their sign-offs and all that, correct?

A. Yes, sir.

Q. SN Rhodes was competent to operate as the Workload Share Stack Operator, correct?

A. Yes, sir. He can pull up data, he can pull up the displays, he can change the pictures of what he's seen, he can interpret it, he can understand the screw blade data, he can pull that off. A situation where I wouldn't put him on if we were on-station analyzing a contact of interests. I'm not going to have him evaluate certain tonal information from a contact. He would not be ready for that, sir.

Q. That's more of a tactical issue, correct?

A. Yes, sir.

Q. A mission oriented SSN issue?

A. Yes, sir.

Q. But, for a day transit in the local areas tracking merchantmen or trawlers, he was fully qualified in your mind, to perform those functions and give you the picture you needed?

A. Yes, sir, he can operate the stack.

Q. How close is SN Rhodes to being qualified, would you say?

A. With his card, I think he's--it would be a rough guess. I haven't seen it in the last couple of days, 60 to 70 percent with his card, I guess. He's--I guess, fairly close. He just--he wants to absorb all of the knowledge before he goes to get a checkout, and sometimes you just got to give the checkout--give a couple of lookups, so he can get that last--he takes longer than he needs to get the checkout, sir.

Q. Okay, but you didn't feel on the 9th of February that having him on the workload share stack, for example, is like having me sit on it, did you?

A. No, sir. No, sir.

Q. You were getting what you thought was good information, right?

A. Yes, sir.

Q. You indicated that in a normal course you would rotate through the different stations--you put different people on different stations, so that they had the opportunity, I guess, to look at a different display?

A. Yes, sir, it just gives them a break from what they're looking at. I mean you can--as an operator, you can sit there and look at a stack, it's possible you could do it at a battle station, you could do it over the trainer. Where you're looking at it for more than, it should be an hour, it's not that you can't do it, it's just that's kind of what you do. It just keeps everybody all the way--the whole picture--it gets them fresh.

Q. And you indicated in your direct testimony that you have not done that with--you had not rotated SN Rhodes and Petty Officer Bowie at that time. Was that because of the not dense contact picture that you were observing?

A. Yes, sir. We only had two contacts basically at any time, it's not that hard to watch the display itself.

Q. Okay. So, that was an exercise of your judgment as to what you have--what the workload of those operators were on the pieces of equipment they were operating.

A. Yes, sir, there was not much going on with them.

Q. Is there any requirement that individuals rotate through the stations?

A. I'm not sure which NWP it would be, but it says about every hour, depending on how you're looking at it.

Q. And that would be depending on the tactical situation?

A. Yes, sir.

Q. SN Rhodes was performing the classification function on the workload share station, correct?

A. Yes, he was, sir.

Q. I think he indicated that there was not much data to perform a classification, correct?

A. No, sir. He would assign the display for the Sierra number, whichever number it was, and then you can bring that data up and look at it. As he did it, I could look over and see there was not much available, there's nothing, you didn't have a good screw blade, you didn't have any lines that would indicate any version of an RPM. There was just nothing there to pull off and a lot of

times as a Supe, you can look down into the display, I call it eye integration, line integration. You can look downward and see things or from a distance that an operator may not.

Q. And you were doing that as a supervisor?

A. Yes, sir.

Q. So, his failure to obtain classification data wasn't something that was his fault? It wasn't operator error, it was lack of data, correct?

A. Yes, sir, there's just nothing there to get.

Q. Correct me if I'm wrong, did you indicate that the Sonar Search Plan was not really relevant to performing sonar searches for local merchant traffic and trawlers.

A. We don't put a contact in the search plan to see how far his range might be. What would have been in the search plan is certain contact of interest that if it was out here, that would give us the **textures of ranges** on that contact.

Q. This turn on Exhibit 4 at 1242, Sierra 13 fades. That maneuver would be--the maneuver where the ship turned looks like about 120 degrees, is that about right? That would indicate----

A. I can't tell, it's more than 90, sir.

Q. More than 90. That meets the requirements for a routine baffle clear to ensure that no one is coming up behind the ship, doesn't it?

A. If it was 120, yes, sir, it could.

Q. Does that seem to be a reasonable thing that the ship would have done at that time?

A. It could, sir. Usually they would tell me that's why they're doing it, but that's something that you could do.

Q. Okay. That provided you some useful information on Sierra 12?

A. Yes, sir.

Q. And Sierra 12 at time 42, on Exhibit 4, that would have been the contact of higher interests because they would have some bearing rate, correct?

A. Yes, sir. That's where I was more focused on at that time.

Q. You indicated Sierra 13 you thought was a distant contact?

A. Yes, sir, I did.

Q. Run through for me, if you would, the decision matrix that went through your mind that told you that that was a distant contact.

A. You didn't have like 3 D/E's on the contact, the SNR level was relatively low. It wasn't a high SNR contact. You didn't have an extreme bearing rate or large bearing rate from this contact. And you weren't getting much data from this contact. As they get closer or louder, you're able to see more from a contact. We didn't see anything from that contact.

Q. I don't want you to tell me anything classified, okay. In talking about getting data from the contact, in general terms can you tell me what you're talking about? Are you talking about screw sounds or screw turns?

A. Yes, sir.

Q. Anything else that's not classified that you can tell me about?

A. Whatever noises he's producing should land on our displays and we should be able to see it. And we didn't see data from Sierra 13.

Q. Like machinery noises?

A. Possibly engines, something to that effect, sir.

Q. And you've been a Sonar Supervisor for about 4 1/2 years?

A. Just over----

Q. 3 1/2 on this ship----

A. Yes, sir. And a year previous on another command, sir.

Q. Contacted three D/E's, in this case, Sierra 13 was all in an upper D/E's, correct?

A. Yes, sir, the top three.

Q. Top three. And as it got closer you would expect to pick up the contact in increasing D/E's?

A. It's actually decreasing, but, yes, sir, it would be like four or five down towards eight, sir.

Q. The lower D/E's--when I said increasing I meant more of the indicator.

A. You would see more of the contact, sir.

Q. For the sound picture you had, SVR picture, is that what it's called, SVP picture?

A. Sound velocity, yes, sir.

Q. Sound velocity, for that SVP that you had on the 9th, would you have expected to hear a--to have had a contact in all D/E's for short range contacts say inside a mile or inside 2,000 yards.

A. I believe I would have seen something come up off that contact, yes, sir.

Q. So, the SVP for 9 February wasn't such that it would exclude the possibility of you seeing a high bearing rate contact in all D/E's?

A. It depends on the different factors, it depends on his loudness. There's a lot of things there. It's a possibility it could have not seen it, but more than likely it would have been there.

Q. The SVP didn't tell you that you wouldn't see that, correct?

A. It helps with the picture, but it wouldn't say, okay you don't have this, you have to put it through a computer to analyze that data.

Q. When you say large, I'm going back to what you told me about what you'd expect to see, what decision matrix you went through to decide that this was a distant contact? You said no large bearing rate. Tell me what a large bearing rate is.

A. Like a 3, 4, 5. That's a lot of bearing over a short period of time.

Q. As an experienced Sonar Operator like yourself, and a Sonar Supervisor, do you have difficulty seeing that three, four, five usually over a short period of time?

A. No, sir. You can usually see it pretty quick, sir.

Q. If you had a 3 or a 4 degree bearing rate for say, over 15 seconds, do you think you can see that?

A. I don't think over 15 seconds. You still need time for the system to process that data, sir.

Q. What do think would be the time that you would need to see a 3 or a 4?

A. 2 to 3 minutes I guess, to really see that bearing rate. Just kind of depends on what you been doing.

Q. If the bearing rate changed would that--you would see--that would be obvious?

A. Yes, sir. If he was drawing right and then he starts drawing left, yes, sir you can pick that up pretty fast.

Q. Even though you can't pick up--maybe it's a 3 or a 4, you would be able to sense and observe an increase in bearing rate?

A. Yes, sir, you should be able to sense it. You can eventually calculate it once you see it.

Q. Okay, so rather than--even though you may not be able to calculate it you should be able to see it as the bearing rate increases?

A. Or it changes, yes, sir.

Q. How much time do you think it would take to see a change in bearing rate on your display?

A. Kind of depends on whether you held the contact for a while and you're not doing anything. But then he does something. He goes from--like say a right to a left, you can see that pretty quick. It just depends on what you've seen before.

Q. So it takes some period of time to calculate the bearing rate, but that there's been a change would be something that you would be able to see relatively quickly?

A. Yes, sir and on the scenario, sir.

Q. When you indicated that you believed it was a distant contact that's an application of your experience and what you've seen before in tracking hundreds maybe thousands of sonar contacts, correct?

A. Yes, sir.

Q. And so, while it was a guess, as you indicated in your testimony, it was an educated guess based on your experience correct?

A. Yes, sir. Earlier in the problem I did one of the wheels to try and get a range, but the lack of bearing

rate and concentrate on 12--there wasn't much to really get a good range beyond that it was distant. I didn't have a lot to work with. You place a towed array, you get a tri-range, you can do other things, but with what I had it was nothing to give me that anything was close.

Q. The increasing signal-noise-ratio in Sierra 13, you were asked by, I believe RADM Stone, if you reported making that report to Control, increasing signal-to-noise ratio?

A. Yes, sir.

Q. Do you recall having been provided that piece of information from anybody?

A. No, sir, I don't recall that information. If it was something that I would have got high SNR it would have stuck out in my head, sir.

Q. What does increasing SNR mean to you in general?

A. In general, it means the contacts are closing you, generally. There's other aspects.

Q. Could increasing speed and ship's speed change signal noise ratio?

A. It can, sir.

Q. How does that happen?

A. As you increase speed you're going to eventually start masking out that contact.

Q. Does SNR go up or down?

A. It should go down on the contact, sir.

PRES: Counsel, you can go as long as you want, but if you want to give me an idea of a time you want to take a break, we'll take a 20 minute recess when you're ready. So, you can proceed along this line as long as you wish to then.

Counsel for CDR Waddle, party (Mr. Gittins): This is probably a good time, sir.

PRES: Okay, court will be in recess until 1005.

The court recessed at 0943 hours, 16 March 2001.

The court opened at 1005, 16 March 2001.

PRES: This court is now in session. Counsel?

CC: Let the record reflect that the members, parties, and counsel are again present with the exception of LT Fulton, who is again absent. No procedural matters from the court, sir.

PRES: Procedural matters?

Counsel for CDR Waddle, party (Mr. Gittins): No, sir.

Counsel for LCDR Pfeifer, party (LCDR Stone): No, sir.

Counsel for LTJG Coen, party (LCDR Filbert): No, sir.

PRES: Okay. Let's recall the witness, please.

[The bailiff did as directed.]

CC: Petty Officer McGiboney, would you retake your seat in the witness box and I would remind you you're still under oath.

WIT: Yes, sir.

[The witness resumed seat in witness box.]

Edward W. McGiboney, Sonar Technician (Submarines) First Class, U.S. Navy, was recalled as a witness for the court, was reminded of his oath, and examined as follows:

Questions by counsel for CDR Waddle, party (Mr. Gittins):

Q. Petty Officer McGiboney, during the break, did you have an opportunity to go review your day planner?

A. Yes, sir, for the dates.

Q. Can you tell me when and for how long you were with the National Transportation Safety Board?

A. I didn't write the times down in the planner. It's the 14th and 15th of last month.

Q. Of February?

A. Yes, sir.

Q. Does 5 hours seem to be about right, that you spent with them?

A. That would probably be a good guess on the time, sir.

Q. You previously met with my co-counsel?

A. Yes, sir.

Q. And at that time do you remember telling her that it was about 5 hours?

A. Yes, sir, and there was like a lot of explanations on just sonar principles itself.

Q. Do you believe that if you had a close contact at 11 knots that you would have heard engine noise?

A. You'd probably would of heard a whole lot of stuff, sir, just in past experience or things.

Q. Based on your past experience?

A. Yes, sir, you'd just have a lot of data.

Q. And you never heard engine noise from Sierra 13 or any other contact?

A. No, sir.

Q. I put in front of you Exhibit 22, which is a CEP plot that's been reconstructed from the SLOGGER data, and you've probably never seen this before, but it's similar to Exhibit 7, which is on the wall, in that Exhibit 7 represents SLOGGER data for Sierra 13. What I've provided you is SLOGGER data for Sierra 12, 13, and 14. And do you see how they're marked?

A. [Reviewing exhibit.] Yes, sir, I do.

Q. I want to direct your attention to the time beginning around time 1332, which I think is on the top page?

A. Yes, sir.

Q. At time 1332 or thereabouts, you made the baffle clearing--well, actually it's 13--yeah--1332, there's a baffle clearing term? Do you see that? [pointing laser at exhibit]

A. Well, you have it----

Q. It's indicated on their first leg baffle clearance maneuver?

A. Yes, it's just after, it's like 1333, I think, sir, is when the leg starts to the turn to the right.

Q. Okay. You see where it says first leg baffle clearing maneuver?

A. Yes, sir.

Q. When you started that maneuver, it appears that you had Sierra 12 and Sierra 13 as contacts, is that what you recall?

A. Yes, sir.

Q. So that the SLOGGER data is--confirms your recollection of what you had?

A. Yes, sir, that's what--I had two contacts here, 12 and 13.

Q. Then there's a baffle--there's a second turn to 120 at about 1333, that's the one--that's the long leg that is indicated, it goes from left to right, [pointing laser at exhibit] you see that?

A. [Reviewing exhibit.] Yes, sir.

Q. Do you see where Sierra 14 pops out? It's just before the second leg, the 120.

A. Yes, sir.

Q. And then Sierra 14 is tacked by the SLOGGER, so that suggests that somebody put a tracker, a sonar tracker on Sierra 14, correct?

A. Yes, sir, that is correct.

Q. Do you have a specific recollection of reporting Sierra 14 to the Conn?

A. Like I told the other interviewers, I don't remember making all the reports. You don't memorize reports, it's just something you do. You get an image trace, you assign a track and you pass that data. I don't remember every contact I've gained. I don't remember exactly when I gained these contacts. This is--that seems like the time I would have gained it, sir.

Q. Okay, my concern is not so much for when you gained it, because I think we have a pretty good idea of when that happened. My concern is whether you have a recollection of actually reporting it to the Conn?

A. That's what I would normally do, sir. I don't remember grabbing the 27MC on either the three contacts and calling that out.

Q. Okay. Do you think it's possible you may not have reported Sierra 14?

A. I would doubt it, sir, because that's normal routine, a guy gains a contact and that's what I would report. You know--I'm not gonna--he's not going to gain a contact and I don't say anything. I'm going to pass that information.

Q. Do you have a specific recollection of Bowie passing Sierra 14 to you?

A. No, sir, I don't recall. I'm sure he did--I had the contacts, but I don't remember him making a report either, sir. I don't remem--like I said it's--we do that so much by routine, you're not memorizing when you gain and fade all your contacts by the numbers and you definitely don't remember passing that data out every time you do it.

Q. When you gain Sierra 14, would you try to analyze that target?

A. Yes, sir.

Q. And would that be what you'd pass a broadband operator would be--trying to do as well? Trying to get an estimate of what he's doing? The contact Sierra 14?

A. Not necessary during a baffle clear, sir. The baffle clear--you're going to be concentrating kind of on the previous mapped out area making sure that nothing else came in, but he obviously is monitoring contacts, but you've got a different kind of focus at that point.

Q. It appears from Exhibit 22 that there's a contact that Sierra 13 is about--is bearing about zero-one-zero in the baffle clearing turn, is that accurate?

A. Yes, sir. I don't know--I couldn't tell you that was his exact bearing, but that makes sense he was towards the north, sir.

Q. You remember what Sierra 12 was bearing before they requested the baffle clearing turn?

A. Without looking at this, it was farther northwest, but I--the exact bearing I couldn't----

Q. Like 340?

A. Three what, sir?

Q. About 340?

A. For Sierra 14?

Q. For Sierra 12.

A. Sierra 12 was farther west than----

Q. Farther west than 340?

A. Yes, sir.

Q. On Exhibit 22, one of the first--you make the first baffle clearing turn, it's 340, that's where you gain Sierra 14, correct?

A. Yes, sir, it's in that time frame.

Q. And then you make the turn of 120, that would--on a turn of 120, would put Sierra 14 into the baffles, isn't that true?

A. To 120, yes, sir, it should.

Q. If--would you think that was an unusual maneuver for the OOD to perform, if you had a brand new contact? If you just identified a brand new contact?

A. Yes, sir, because you'd normally want to get a couple of legs on the contacts of interest.

Q. So, if the turn to 340 is the turn that breaks out Sierra 14--it gives you the contact to detect Sierra 14, would you know that the OOD had turned the ship to place Sierra 14 in the baffles when he made the turn?

A. I don't think we had gone to 120, I thought we went a little--not that far. I don't think we had made it that far. I can't remember exact bearing.

Q. Okay, would that be a report you would make?

A. The--into of the baffles, yes, sir.

Q. Based on your experience on GREENEVILLE, what would you expect the OOD to do, if you gained a new contact when you were clearing, in your first baffle clearing time?

A. You always see him do maybe a different leg.

Q. Maybe add a leg?

A. You could add a leg, yes.

Q. Okay. Based on your experience operating with the Captain of the GREENEVILLE, CDR Waddle, do you think that CDR Waddle would have performed an additional leg based on adding contact in a baffle clearing turn?

A. I think he would have, just from my past.

Q. That's based on your experience?

A. Yes, sir, I can't look up every time we've done it, but I believe he has.

Q. Would the acoustic sea state have effected your ability to track Sierra 13 or Sierra 14?

A. Acoustic sea state?

Q. Right.

A. I believe I had good environment conditions to hear contacts out long distances. I guess obviously you get closer to the surface, the chance it may have some affect on the tracker, but I felt I had good ranges on it.

Q. Did the acoustic sea state seem to degrade your system in anyway when you moved to periscope depth? You're still tracking 13, right? At periscope depth?

A. It didn't seem to degrade as we got closer to the periscope at periscope depth.

Q. So, that the fact that you weren't able to switch on that piece of gear that got acoustics sea state, you don't believe that affected your ability to understand the situational awareness?

A. No, sir, that more is a compensation for, I can't say how wide, but it's for the Dive and the Control Party--makes sure the boat is at a safe depth.

Q. That'll be something that the Diving Officer of the Watch may want to know to assist him in keeping the ship stable at periscope depth?

A. That is correct.

Q. When you completed the two baffle clearing turns were performed, the 340 and then the one--approximately 120 turn were completed, did you believe you had sufficient information to inform you of the contact picture at that time?

A. I thought I did, sir.

Q. At periscope depth prior to--prior to reaching periscope depth when the word is given, prepare for periscope depth, and to make your depth 60 feet, those kind of words are given. There's silence in the Control Room, correct?

A. That's correct, sir.

Q. So on the 9th of February, were those procedures followed to the best of your knowledge? The silence in the Control Room?

A. At the least, I don't remember hearing anything extra over the open microphone in Sonar.

Q. And you are attentive to what's going on in that--what you hear through the open mike, going to periscope depth, correct?

A. You're focused on the displays themselves and the operators, but you're listening to see what's going on because the next words you're listening to hear is, "no close contacts."

Q. And in this case, you did hear the report, "no close contacts," correct?

A. Yes, I did, sir.

Q. And something you also heard, no visual contacts?

A. Correct, sir. I believe we had come up, I'm not sure how far, but we came up farther for a different look around.

Q. Okay. So you heard no close contacts after the ship was at periscope depth? The ship was raised some amount, you don't remember what that is, and then you heard no visual contact?

A. I believe that was the word, sir. Yes, sir.

Q. Do you remember who made the call on, no visual contacts?

A. I believe the CO made the call, no visual contacts, but I think, no close contacts was the Officer of the Deck, I think.

Q. Okay. And we're just after your best recollections here. Just do the best you can. And if you don't know the answer, that's fine. In your experience in operating a--with the CO and XO that were assigned at the GREENEVILLE at the time, CDR Waddle and LCDR Pfeifer, did they seem to be experienced in looking at Sonar?

A. Yes, sir.

Q. Did they appear be able to review sonar--the sonar data on your indicators and understand what it depicted?

A. I'm pretty sure they had a good idea how to read the screens--I don't think you make it to that level without understanding that, sir.

Q. I agree. I just wanted to make that--when the XO was in your Sonar Room, you had the feeling that he was providing you with backup, correct?

A. I was never told the reason for it, but it just--my assumption was that's why he was in there, because the AVSDU was not working on the Conn, that's the only assumption I had on that. But, he was looking in that direction, but----

Q. Alright. It gave you another set of eyes with an experienced submariner, correct?

A. Yes, sir.

Q. I think you indicated in your testimony that you don't recall the Commanding Officer coming in to Sonar?

A. I don't recall it, like I said I don't memorize everybody coming through unless it's distracting the watch. It's very possible he came through, to take a picture of what's going on, he could ask me what I felt about what was going on, but to recall him saying, okay, he was right here, it would have been a very short conversation, sir.

Q. It wouldn't be unusual for the CO to come through Sonar on his way to Control from the Stateroom, correct?

A. No, sir, I don't see why he wouldn't do that or just come in the aft door and do the same thing. It wouldn't matter.

Q. The Captain's Stateroom is just--it's kind of about midway in the--in your Sonar Room. It's just on the other side of the bulkhead, right?

A. Yes, I could show you on the graph, but yes, sir, it's----

Q. Could we put up the Control Room for Exhibit 4, please?

[The bailiff did as directed.]

A. Okay. Like here's the Bridge access [pointing laser at exhibit], his Stateroom would be right back in this area here [pointing laser at exhibit], so it's about center and behind forward to the port.

Q. The forward hatch to your Sonar Room is to the right of Exhibit 6 where I'm pointing right now, correct?

A. Yes.

Q. The right hand side, that little blue area?

A. Yes, sir, that's the forward part of the ship, yes, sir.

Q. And there's a little passageway, where the white--where I'm pointing now in the white--little passageway leading from the main passageway?

A. Yes, sir, you would have a door right here and then there'd be a door on the outside, over--a little bit farther. Yes, sir, it's not that far.

Q. And when you say, a little bit farther, you were indicating what would be an extension of the passageway on this Exhibit 6 passed the Bridge access and passed toward the Captain's Stateroom?

A. Yes, sir. You just walk down the passageway you take a right there's a door there, you can't go--I think it's like 5 feet, 6 feet somewhere approximate, and then you're right to the front of the Sonar. It's not a very far travel, sir.

Q. In response to, I think it was RADM Sullivan's questions, you indicated that there was no periscope depth briefing done before the ship was brought to periscope depth?

A. No, sir, we didn't have our typical everybody come to Control and give a brief.

Q. In that, everybody come to Control and have a brief is an evolution brief, correct?

A. Yes, sir.

Q. That's when you're going to maybe dump trash or ventilate the ship. Those are the kinds of things that are talked about at that brief, correct?

A. That's some of the things, yes, sir.

Q. What else?

A. The ESM, if he comes out, he may ask me where my contacts are and I'll give him just bearings of contacts. It'll help him later to focus in on, if he has something that could correlate to my contact or mine to his or if there's something not there then that type thing.

Q. And that would be in the initial defensive search when the ship is brought to periscope depth to identify hazards to ship, right?

A. Yes, sir. And we'd also talk about basically the courses the Officer of the Deck plans on coming to, to do the periscope depth.

Q. The baffle clearing turn that's Exhibit 22, at 340, when you perform the two maneuvers 340, 120, you felt you had sufficient information to give you the contact picture, correct?

A. Yes, I did, sir.

Q. And I think you indicated that you would be able to identify a bearing rate of 3 or 4 degrees pretty easily.

A. Yes, sir, I should be able to.

Q. Okay. Do you think 6 would have been pretty easy to see?

A. That would be very easy to see, sir.

Q. And obviously you didn't see a 6 degree bearing rate, correct?

A. No, sir, I did not see a 6.

Q. If you saw a 6 degree bearing rate, you would have brought that to someone's attention immediately, wouldn't you?

A. Yes, sir, really quick. It's very obvious.

Q. And if you saw an increasing bearing rate, even though you weren't able to identify the specific rate at which bearing was changing, you still would have brought that information to the Captain, wouldn't you?

A. Yes, sir, I would.

Q. Even if you couldn't compute it, correct?

A. Yes, sir, you get a change in bearing rate you can call that change out.

Q. Finally, I just want to talk to you a minute about the watchbill and the way watches were stood on GREENEVILLE. In the watches that you stood in Sonar, do you believe--in particular on the 9th of February, do you believe that the watches were stood in a manner in which they were supposed to be stood?

A. Yes, sir, I do.

Q. There wasn't any--because this was a DV cruise there was no difference in the way you or your watchstanding team conducted themselves, correct?

A. Correct. You assume the--do the job you have to do.

Q. You indicated that SN Rhodes stood a watch without being qualified without having an over instruction watchstander on him before?

A. Yes, sir.

Q. Did you bring that to anybody's attention that the ship was doing--that you were doing things that way or the watchbill was not right?

A. As in for that particular underway or--

Q. No, for any underway because you said that you had been doing it that way for awhile.

A. The only time I fully addressed that was back years ago with the previous Chief when I was re-qualifying, that was the last time that I addressed that issue.

Q. Okay, and what did the previous Chief tell you?

A. He said that you have operators along the stack as well as you to help out to get these guys qualified.

Q. That was what you received from your leadership at the time?

A. At that time yes, sir.

Q. You know, you indicated that you had some--in hindsight maybe the TMA length should have been longer?

A. Yes, sir.

Q. At the time you didn't believe that, did you?

A. No, sir.

Q. And when you made that suggestion you were trying to figure out ways that you might have avoided this accident, correct?

A. Yes, sir.

Q. What else you could have done, correct?

A. I have done a lot of what ifs since then, sir.

Q. Would it be fair to say that that is about the only thing that you can think of that Sonar could have done differently?

A. Yes, sir.

Q. Everything else you did exactly by the book, correct? Other than Rhodes sitting on----

A. Yes, sir. I believe we did.

Q. And you are not sure that that would have avoided this accident are you?

A. I don't care really who would have been sitting there, I could have told Reyes to sit there and have Rhodes come off, I don't think anybody would have seen that any differently.

Q. Looking at what is the three page depiction of Exhibit 22, the larger copy here that I am pointing at. You had been on watch since 1130 or thereabouts, correct?

A. Yes, sir.

Q. So, your time on watch even predates--precedes in time this depiction this Exhibit 22, correct?

A. Yes, sir.

Q. And you have it there, yours in pieces rather than all taped together?

A. Yes, sir.

Q. Over that period of time you never relieved the watch, correct?

A. No, sir. I was on watch the whole time.

Q. And your Passive Broadband Operator, Petty Officer Bowie, was on watch the entire time, correct?

A. Yes, sir, he would have been.

Q. Even SN Rhodes was on watch the entire time, correct?

A. Yes, sir, he was.

Q. So, you didn't change any personnel out over that entire period?

A. No, sir, I did not.

Q. You added Reyes at some point, but you didn't change anybody?

A. No, sir.

Q. And over that extended period of time from 11:30 until the time of the accident, you had the opportunity to build situational awareness, correct?

A. I believe I did, sir.

Q. And you felt you had situational awareness, correct?

A. Yes I did, sir.

Q. And it appeared to you based on how your Sonar Shop was working at that time that Petty Officer Bowie had situational awareness, correct?

A. I believe he would have had it as well. I don't know if SN Rhodes would have had the same extent as Petty Officer Bowie, but I believe we had an idea of what was going on.

Q. I am just asking about Petty Officer Bowie, the fully qualified Sonar--senior Sonar Operator. He appeared to understand what the contact picture was and his duties and what he was suppose to be doing, correct?

A. Yes, sir.

Counsel for CDR Waddle, party (Mr. Gittins): That is all I have, sir.

PRES: Counsel for LCDR Pfeifer?

Counsel for LCDR Pfeifer, party (LCDR Stone): Yes, sir.

Questions by counsel for LCDR Pfeifer, party (LCDR Stone):

Q. Now, Petty Officer McGiboney, you're not exactly sure when the XO came into Sonar, are you?

A. Not exact time, sir, No, sir, but it was during the last one or two turns of the angles and dangles--the hard left and rights.

Q. Roughly the 120 dive? Does that sound to be about right?

A. I don't know exactly what time he walked in, sir. I know it was just toward the end of the angles and dangles.

Q. And, you're not real sure if Petty Officer Reyes came in before him or he came in before Petty Officer Reyes or that they were there at the same time?

A. I think it was pretty close to the same time. To the best of my ability, I believe the XO came in just before Petty Officer Reyes, but I couldn't give you an exact time or--I mean it's something that you're not going to study.

Q. Right. If there is conflicting testimony from maybe Petty Officer Reyes, I mean his could be just as correct, correct? If Petty Officer Reyes was to have testified that he came into the Sonar Shack just prior to the XO that very well may be correct?

A. It is possible, sir.

Q. Now I want to talk a little bit about--you don't even remember the Commanding Officer coming into Sonar?

A. Like I said, it is not something you study. You have people passing through that are going to the Control Room. I couldn't tell you. We just went to the trainer last week. I can't tell you everything we did or people that asked me questions. It is very possible he came through. He would have had a very short dialogue and he would have left. It is not something that--you know, he didn't stay.

Q. Is it safe to say though then that whatever time the Commanding Officer did stay in the Sonar Shack was shorter than that of the XO since you remember him?

A. Yes, sir. Well, he also--the timeframe too. We were getting ready to do the last leg or two of the turns he

was in there and he departed as far as I know right after the periscope depth approach.

Q. And you heard the Commanding Officer call to proceed to periscope depth? That is your recollection that it was the Commanding Officer's voice?

A. To periscope depth?

Q. Yes, to proceed to periscope depth?

A. I don't know the CO--I can't remember exactly who. I remember hearing "all stations, Conn, proceed to periscope depth."

Q. Do you remember talking to me before?

A. One time, sir.

Q. Two weeks ago? Do you remember telling me at that time that you believe it was the CO that called to go to PD?

A. I'm not sure, sir. It is possible.

Q. Would it be safe to say that your memory might have been a little fresher then than it is today?

A. It is possible, sir.

Q. Now when the Executive Officer was in the Sonar Shack you had a brief conversation with him?

A. I'm probably pretty sure I did. What we discussed--like I said it wasn't a lengthy discussion. We were pretty much right into a baffle clear.

Q. So you are paying attention to the stacks?

A. Yes, sir.

Q. Now you told Master Chief Anderson that the XO--you didn't know exactly why the XO was in there?

A. I don't think he told me exactly why he was in there. It just made sense that he was in there because of the AVSDU, it made sense to me.

Q. That would have been an appropriate thing to do?

A. I believe so, sir.

Q. And at the same time, you also told me that the XO wasn't a distraction for you?

A. No, sir.

Q. He allowed you to perform your job the way that you needed to perform your job?

A. Yes, sir.

Q. And at the time you felt comfortable with the way that you were performing your job?

A. I did, sir.

Q. And at some point the Executive Officer did leave Sonar roughly right--either right after or right as your ascending to periscope depth is that----

A. It was after we got to periscope depth is when he left.

Q. Right after you got to periscope depth the Executive Officer left?

A. I believe so, sir.

Q. Would you believe that would be right after the call, no close contacts, or do you really remember exactly when it was?

A. I don't know exactly, but that would be about--I mean nobody is going to be moving until you hear that so it probably had been right thereafter.

Q. Right in that exact time frame?

A. Probably just after.

Counsel for LCDR Pfeifer, party (LCDR Stone): Okay, that's all the questions I have, sir.

PRES: Okay. Counsel for Mr. Coen?

Counsel for LTJG Coen, party (LCDR Filbert): Thank you, sir. Can I have Exhibit 7 put up, please?

[The bailiff did as directed.]

Q. Petty Officer McGiboney, do you have Exhibit 56 in front of you?

A. I'm not sure what 56 is.

Q. It is the Master Chief Anderson report that has been referred to when RADM Sullivan was asking you questions.

A. Yes, sir. I've got it.

Q. Do you also have enclosure (6) to the Preliminary Report, which was a summary of your interview?

A. Yes, sir, I do.

Q. Petty Officer McGiboney, I want to begin by asking you some questions about the tracking of Sierra 13 and what you were reporting or what you would have been reporting to Control during that time, okay? And, I understand there's some things you may not remember, but if it is your normal procedure, you don't remember otherwise, just please let us know.

A. Okay, sir.

Q. Now you said earlier that you picked up Sierra 13 about 1232 does that sound about right?

A. About that----

Q. There is a reconstruct up here, Exhibit 4?

A. 1232.

Q. 1232?

A. I'm not sure exact time, I mean, we would have picked up Sierra 12 then Sierra 13.

Q. Does that sound about right at 1230? A little over an hour before the collision?

A. About there. It would be a rough time. I think it was a little bit earlier than that, but I'm not sure.

Q. Somewhere around there?

A. Yes, sir.

Q. If you look at Exhibit 7 here. I want to ask you a couple of questions about that. You see where it appears like you are tracking Sierra 13 at 1240, then at maybe 1242 there? You see that?

A. Yes, sir.

Q. And then there is a period of time where it appears like you lose Sierra 13. Is that right?

A. Yes.

Q. Now when you first pick up a contact, what is the report that you give to Control?

A. It would be, "Conn, Sonar gained Sierra 13 bearing north or 000, initial classification surface contact or other." You add initial classification to it.

Q. And you would have done that in this case, is that right?

A. Yes, sir. I would have done that.

Q. Not that your memory makes you think that you didn't do that?

A. No, sir, if it was something beyond the normal it would be easy to remember.

Q. I understand. So you make that initial report and then for this period of time when you lose Sierra 13 for, it looks like about 13 minutes or somewhere around there----

A. Yes, sir.

Q. Would you make a report when you lose the contact?

A. Yes, sir, either--for whatever purpose it would be, put it in the baffles, it faded whatever that reason is.

Q. Tell me what the report is.

A. "Conn, Sonar Sierra 13 faded, last bearing," in this case "north".

Q. Okay and that would be acknowledged by the Officer of the Deck?

A. It should be, yes, sir.

Q. Same for when you pick up the contact? That would be acknowledged by the Officer of the Deck?

A. Yes, sir.

Q. Now at this time at 12--between 1230 and 1300, the Commanding Officer wasn't in Control during that period was he?

A. I have no idea, sir. I wasn't in Control.

Q. But, you were aware that he was in Control at some later point during the angles and high-speed maneuvers.

A. Yes, sir, he was out there at some point. I'm not sure exactly when he got out to Control.

Q. Now when you pick up the contact here at around 1255 and I can't be exact, but around there, would there be a report made to the Officer of the Deck during that time as well?

A. Yes, sir. You would say, "Conn, Sonar holding a regain of Sierra 13" and give its bearing 003, 5, 3, probably.

Q. Okay, and would that be acknowledged by the Officer of the Deck?

A. Yes, sir, it should be.

Q. Now further up here when you go into the high-speed or the large rudder angles up here [pointing laser at exhibit] when you go into the high-speed--or the large rudder angles up here, can you see that? And, I'm pointing to Exhibit 7.

A. Yes, sir.

Q. Right before 1330, it appears like you lost Sierra 13 during that time as well?

A. We gained and faded it as it came in because of the different speeds, depths, turns. You gain it as you can see it, that way the data can get passed, if it is not trackable then you come back off of it.

Q. Okay, what reports would you have made to Control during this period?

A. During angles and dangles?

Q. Yes.

A. Probably, not too many on gains and fades because you're going to be calling it out every 15 to 20 seconds depending on what you're doing.

Q. Okay, it's expected that you're going to lose, you're going to fade and gain, so you wouldn't make those reports during that period?

A. During that period only, sir, and that's just because of the angles and dangles. Normally, all reports are made for that.

Q. Okay, now coming out of the high-speed maneuvers--I'm sorry, out of the angles, would you make any reports at that time once they're done with those maneuvers?

A. I don't really think we were that long before we started the things, I don't think I would've called regain at that point, I don't--I think we started right away.

Q. Alright, now after these maneuvers were done, the high-speed maneuvers and the angles, as the ship was getting ready to do the baffle clear, would there be a report asking you for all contacts from Control to Sonar?

A. Normally there is, I believe, on your legs. Usually we do a report.

Q. So, it would be, "prepare to do baffle clear, report all contacts"?

A. Generally that's how--usually when you yell out for the baffle clear, all the contacts are addressed. But, when you're doing your baffle clear, they can go "Sonar, Conn, report all sonar contacts."

Q. Okay, did you get that report on this day on 9 February?

A. I'm not sure, I could've.

Q. Well, let me ask you then about the--the periscope depth brief, the brief that normally occurs. Now, you stood watch with Mr. Coen before?

A. Yes, I have, last EASTPAC.

Q. Okay, now based upon the fact that it's an accepted procedure onboard GREENEVILLE and knowing Mr. Coen, would you have expect to have done that brief in the normal course?

A. Yes, sir.

Q. And, when you do that--when you have that brief, you said earlier that--that the Officer of the Deck may give you some information regarding what's going to happen during the process of coming up to periscope depth?

A. Yes, sir, he may say I'm going to go to this course or this course, depending on what he wants to do.

Q. Okay, and you could make recommendations to him regarding what would be--what would be the best courses to do?

A. Yes, sir, you could do that.

Q. Have you done that in the past.

A. Specifically, with Mr. Coen, I'm not sure.

Q. Not with Mr. Coen, but with OODs in general.

A. Various different times, just depends on where they're going and want to do.

Q. When you get that information that there's going to be particular courses that--that the ship is going to go on, does that help you when you go back into Sonar, knowing what's coming up?

A. Yes, if you already know where you're going to be on your next leg, you know where you're going to come to, so you can start evaluating that data.

Q. Now, in this situation--well, I want to ask you about the legs that were--that the ship took, 340 and 120. If you--if you look at Exhibit 4 here, you could see on this box I'm pointing to right here, it says 1331 slows to 10 knots and maneuvers to course 340. And, then up here at 1337, it says proceeds to periscope depth on course 120.

A. Yes, sir.

Q. You could see that there was about 6 minutes from the time the ship began--the time the ship went to 340 until they went to periscope depth at 1337?

A. Yes, sir.

Q. Now, we've heard testimony here in the court and also if you look at Exhibit 56, which is a Master Chief Anderson document. On page--let me see--it's the second page of your interview. You see the second page there?

A. It would be the very last page or the middle page, sir?

Q. It would be the middle page. And, you look down at the bottom of the page where it says baffle clearing procedures----

A. Yes, sir.

Q. And, there it says com--this is about, I guess, the third line, SLOGGER indicates steady for 4.5 minutes sufficient to obtain a TMA leg on Sierra 13. And, what Master Chief Anderson is saying there is that 4.5 minutes on course 120. So, that would leave about a minute and a half or so for the course 340?

A. Yes, sir.

Q. Now, your sense was that the course--or that they were on 340 for about 3 minutes, is that right?

A. I thought so, sir.

Q. And, that was based upon your experience?

A. Yes, sir.

Q. Now, at that time, you knew the Commanding Officer was in Control?

A. I knew he was in Control, yes, sir.

Q. So, is it part of your analysis that my sense is that this is 3 minutes, plus the Commanding Officer is the one who's in Control, basically in charge of these maneuvers. Did that help you make that assessment, those 3 minutes was okay.

A. He was in Control, I can't remember if he was specifically driving the baffle courses, that's--if he's in Control, he can monitor also what's going on so, the more senior--you have kind of guiding the evolution or at least seeing the evolution, the more comfortable you can feel with the movement of time of how--how precisely you do certain things.

Q. Okay, so understanding his experience would make you more comfortable with the legs. Was that a fair statement? If you know that he's in Control and monitoring what's going on?

A. I'm not sure if that was my exact thought at the time, but it may have had something to do with my thinking at that time.

Q. Okay, now knowing that the ship was only on course 340 for a minute and a half or so, if the ship had actually been on 340 for 3 minutes, you think you would have picked up that right bearing rate?

A. Assuming what I do now, sir, yes, I would've seen it.

Counsel for LTJG Coen, party (LCDR Filbert): Thank you, I don't have any further questions, sir.

PRES: Redirect?

MBR (RADM STONE): Good morning.

WIT: Good morning again, sir.

MBR (RADM STONE): If I could have the watchbill for 9 February posted up there?

[The bailiff did as directed.]

EXAMINATION BY THE COURT

Questions by a court member (RADM Stone):

Q. I'm going to be talking to you a little bit about watchbill. And, the reason I'm going to be talking to you about it is, we all know this is a pretty powerful document because it tells us what the team is that's going to sea on the 9th of February and it reflects the standards of the Commanding Officer of the ship. Would you agree that the CO sets the standards on the boat?

A. Yes, sir, the overall standards. You have other standards that help you or give guidance beyond that, you have your Chief, maybe Leading First, Department Head, they all are supposed to kind of be in the same line.

Q. Right, provide input and at the end of the day our Commanding Officer's set the standard?

A. Yes, sir.

Q. So, when you asked when you checked aboard GREENEVILLE about what the standard was for this unqualified watch, you were told what the standard was by your supervisor, is that correct?

A. A previous Chief, yes, sir.

Q. Previous Chief. So, every time you see a signed watchbill by the Commanding Officer in the time that you've been onboard and you see Rhodes, an unqualified watchstander, on that watchbill and it's signed by the Commanding Officer, that reinforces that that is the standard of the Commanding Officer of GREENEVILLE, does it not?

A. Yes, sir, I guess it would be.

Q. It was mentioned--I think by Mr. Gittins, that the watches on 9 February were stood in a manner as they were supposed to be stood and I believe then I took your answer to reflect that, they were stood in the manner they were supposed to be stood because they were in accordance with the GREENEVILLE standard signed by the CO that Rhodes was to be on watch, is that a correct interpretation of that?

A. I guess you could put it all together like that. When I see an approved watch or I see Rhodes on watch,

it's not something that I'm waiting for over instructor to be behind him, so I'm used to seeing that if that's what----

Q. But, you know that's the standard?

A. Yes, sir.

Q. It was also mentioned during Mr. Gittins questions with you about--during the questioning that I had with you earlier this morning that, one of the aspects that you were asked to comment was about changing the watch and what I wanted to clarify on that is in our discussions this morning, they were not focused on the issue of whether you could take a qualified watch and because a chow relief or a meal relief change that person out with another qualified watch. That wasn't the point or really the discussion topic, but I agree that based on the judgment of the Sonar Supe, if someone needs to make a head call or in your judgment they're tired, that to replace a qualified watch with another qualified watch is certainly under your purview, do you agree?

A. Yes sir, I can move watches around in the shack.

Q. The point though that I was making is that, what is not under the purview of a Sonar Supe like yourself, is to make decisions concerning placing unqualified watchstanders in watchstations, that's under the purview of the Commanding Officer to approve the watchbill and state that he directs that, that can be done on my ship. So, I wanted to clarify, it's not your decision to place an unqualified watchstander in that position, that comes from higher authority on your boat, doesn't it?

A. Yes, sir, you get a--our Sonar Shack or the members you're going to have in your shack on your watchbill, and from there if you need to rotate operators back and forth, I wouldn't put SN Rhodes on our narrowband stack. That you just wouldn't do that, he's not ready to start that. He's at this level still, so I wouldn't do that, but I would be able to move him inside the shack to where I need him. But, to have my watch team or watch group, I'm not the one picking that watch group.

Q. Right, now when you asked your supervisor when you first checked aboard, even you knew that what the policy was from the Type Commander concerning the qualifications on watch?

A. Yes, sir, it's in the NWP's.

Q. Right, and the Type Commander makes those decisions based on issues such as safety, backup, efficiency?

A. Yes, sir.

Q. The Type Commander who has a wealth of experience knows that to maximize those areas, you indeed need to have appropriate watchstanders and issues those directives and so, I was just making the point that, that's not your decision to make on whether to violate that?

A. Correct, sir.

Q. Also, Mr. Gittins mentioned an issue related to how close Rhodes was to qualification, and for those of us that go to sea and have commanded ships, this is a very, I think, important issue that I wanted to talk to you about because the sea is such a dangerous environment for those who operate in that venue. We understand that close enough and fully qualified, there's a world of difference there. And, you go and get on a commercial airplane and fly and someone were to tell you that the pilot is close to being qualified, you would infer from that, that there's added safety considerations and risk. When you go to your doctor, if someone says the doctor is close enough to being fully qualified, the same applies. You're not going to feel real comfortable with that because that's increased risk to you, so when we go to sea and people are unqualified for their watch, but close, that also implies an increased risk that makes us uncomfortable, would you not agree with that?

A. I would say that's a yes. To have him--he's not fully qualified, but he is close.

Q. I don't think we'll ever know if a fully qualified operator or a continuously monitored under instruction operator in accordance with the Type Commander's requirements would have made a difference on 9 February, will we?

A. I don't think we'll ever repeat that same scenario. I don't think you'll have that chance.

MBR (RADM STONE): Thank you, that's all I have.

Questions by the President:

Q. Petty Officer McGiboney, yesterday in testimony or several days ago in testimony, Petty Officer Bowie testified that he often lent a hand to Rhodes. He would look over his shoulder and try to help him out, he's commenting on watchstanding techniques and things like that. You could call that backup, but you could also call that he was not paying attention to his BSY-1 display?

A. If you use it in broadband, you look at your two screens. He can glance over and glance back, he's got the same D/E's on one side that he's got in his upper display over here [pointing laser at exhibit]. The only thing he'd be act--probably helping out with is just ensuring he's doing what the formalities.

Q. Okay. But it goes back to maybe your standard when you came onboard, your questioning of why you wouldn't have a qualified over watch on the--on the UI. What we found was, in the testimony from Petty Officer Bowie, was we found out why, is because Bowie spent some time with Rhodes telling him about what was going on with the display and kind of helping him out, which is what I think the over instruction watch would have done.

A. Yes, sir. I don't know on that day he did that much of it, he has in the past. I had Rhodes for a lot of the EASTPAC, and I'm sure he had an opportunity to be helped by many people from that display.

Q. Well, as I recall from the testimony, Petty Officer Bowie said that they're actually doing this after they finished the angles and dangles, so it's between the completion of the turns to going to periscope depth, they were having some of these conversations, and then Petty Officer Reyes came in to get his jacket and actually started providing help to--to Rhodes.

A. Yes, sir. There was nothing vastly critical that was taking Petty Officer Bowie away from his stack. Anything he was doing was minor, it wasn't like pushing buttons on his stack, it would be more verbal communication.

Q. Okay. But would you agree that it would take the attention away of your one qualified watchstander on the displays if he's providing assistance to an unqualified watch?

A. It can distract some of it, but it's not that hard.

Q. Do you know why it wasn't a practice to designate under instruction watches on a watchbill with an asterisk or something like that? What--what----

A. For Sonar?

Q. Well, I guess for Sonar since you're the Sonar Supe.

A. Okay, for Sonar we just normally put the watch team together, usually Chief or the Leading First, and then I get to proof, and that's who you have to work.

There's--I never seen it asterisk or parentheses with a not qualified guy beside a qualified guy's name, for Sonar. It's typically done for other watches, like the Helm or Chief of the Watch UI or something to that effect.

Q. If it was there, it would probably help people backup each other and understand what wasn't quite right about the watch team if you--it was clear to everyone that you had un--under instruction watch?

A. Yes, sir. It would be very clear.

Q. You mentioned earlier that--things that you liked to do in Sonar was rotate your watch team. Now I think the watch team that you had onboard, you were Sonar Supe, Petty Officer Bowie wasn't qualified to stand Sonar Supe?

A. Petty Officer Bowie is not qualified to stand Sonar Supe.

Q. Okay, and Petty Officer--SN Rhodes is not qualified as an operator, BSY-1 Operator?

A. Correct, sir.

Q. So you couldn't rotate?

A. Actually, there would have been no rotation there at all.

Q. So, you can't do any backup with each other, you can't--I thought, you implied that by the rotation you could keep people focused and----

A. Yes, sir, during a normal 6 hour watch you could have extra people come through. You may have an extra in there to do that rotation. There's--there's other ways to do it, but 2 hour an hour is not long of a period.

Q. Okay, but I was trying to understand--you implied that you probably do it every 30 minutes, every 45 minutes, depending on how busy you were. But the way you were organized with an unqualified BSY-1 display, a BSY-1 Operator that wasn't qualified as Sonar Supe, you couldn't rotate anybody.

A. Not without going and getting somebody else, sir.

Q. And you never rotated, right?

A. No, sir, we did not rotate.

Q. Because Petty Officer Reyes came in and stood over the shoulder of Rhodes and it's a standard rotation through that whole watchstanding team, right?

A. Yes, sir, we stayed with the same operators.

Q. Okay. We spent sometime with the Chief of the Boat yesterday talking about watchbill, because we kind of felt that that was one of his significant functions was to put stability on the watchbill and make sure it's right. We went through 13 watchstanding stations and we found that out of the 13 there were 9--9 different--in other words, if you look at that watchbill and then you looked at the number of people who were standing watch at the time of the collision and you compared them to the 1200-1800 watchbill, out of 13 stations that we reviewed, 9 of them were different. Does that astound you?

A. For an underway like this, being as short as it were, with the maneuvering watch, modified piloting party, obviously, it can be written better to do things, but you've got to relieve and go as you can, 9 is--that's a lot. That seems like a whole lot, but I'm not sure how many would be--I don't think that's the norm----

Q. It strikes the members as a lot.

A. That's a lot.

Q. Okay. It doesn't seem like a very efficient way to run a ship. Do you agree?

A. Obviously, it could be done better.

PRES: Re-cross?

RECROSS-EXAMINATION

Counsel for CDR Waddle, party (Mr. Gittins):

Q. You were asked a question earlier, and agreed, the Commanding Officer sets the standards onboard GREENEVILLE, correct?

A. Yes, sir, he does.

Q. And the standards that CDR Waddle set onboard GREENEVILLE were high standards, wouldn't you agree?

A. Yes, sir, they are.

Q. He was a demanding Commanding Officer, correct?

A. I wouldn't call it demanding, that, to me, sounds like a bad term.

Q. Okay.

A. He's--he expects a lot, his biggest three words are: efficiency, safety, and backup. He tries to have set level, from what I see from other CO's, I haven't been through all of them, obviously, but he's had the highest standard that I've seen.

Q. Okay. Now the standard that you learned about, of standing sonar watches, that you brought to the attention of the Chief.

A. Yes, sir, our previous Chief.

Q. I want to make sure this is very clear. That was while Commander Guy was still in command of the GREENEVILLE, correct?

A. That is correct.

Q. It was not CDR Waddle that was the CO of the GREENEVILLE at that time?

A. No, sir. I couldn't--I--I've been onboard longer than the Captain, sir.

Q. You--you never personally brought this situation to the attention of the CO or XO, did you?

A. No, sir.

Q. You were asked some questions about the watchbill and the Command--standards set by the CO, do you agree with me that the watchbill, approved by the Commanding Officer, is also prepared by the Weapons Officer, correct?

A. Yes, sir, it is.

Q. Okay, and who's the Weapons Officer?

A. Lieutenant Van Winkle, sir.

Q. What's his job?

A. It's to maintain that department, sir.

Q. You're--you're in that department?

A. Yes, sir.

Q. And the reason the Weapons Officer approves the watchbill, or signs the watchbill, is to indicate to the Captain that his section of the watchbill is properly manned, correct?

A. That's how it should work, sir.

Q. Okay. And there's--all the departments are on the watchbill, right?

A. I always look for ours, I believe so, sir. Yes, sir, they--all four.

Q. The fact that SN Rhodes was under instruction, it's not indicated on that watchbill, correct?

A. Correct, sir.

Q. You were present in Sonar, and you watched his performance, correct?

A. Yes, sir.

Q. Did SN Rhodes do his job to standards that day?

A. Yes, he did, sir.

Q. Any doubt in your mind about that?

A. No, sir.

Q. If there had been, you would have taken him off the watch and got somebody in there that could do the job, correct?

A. Yes, sir, if he was not up to speed on that--been able to do--if he couldn't have changed the displays, he

didn't have any idea about that, I would have asked for somebody else to be in there.

Q. He was not acting as the Passive Broadband Operator that day, correct?

A. No, sir, he was the secondary.

Q. The Passive Broadband Operator is the person on watch who's required to detect and track contacts, correct?

A. Yes, sir.

Q. And the Workload Share Operator did classification, correct?

A. And backup to gaining contacts, sir.

Q. Backup to gaining contacts.

A. Yes, sir, there was none--there was not that many to gain, so.

Q. Petty Officer Bowie didn't miss any contacts, he gained them all, that you're aware of correct?

A. Yes, sir, that's all the contacts we had.

Q. So Petty Officer Rhodes didn't really need to back him up because he was doing a pretty good job on that, correct?

A. Yes, sir, he was doing well in safety of the ship.

Q. What could Petty--what could a fully qualified Workload Share Operator have done differently than what SN Rhodes did, in this case?

A. Nothing that I can think of by watching the events of the day.

Q. Okay. If Petty Officer Reyes had been sitting in that seat, rather than Petty--SN Rhodes, can you say that this accident would not have occurred?

A. I can't say that, sir.

Q. Can you think of anything that Petty Officer Reyes would have done differently than Rhodes was doing?

A. Not for operational stack, no, sir.

Q. It is not unusual for watchstanders sitting next to each other to communicate about what they see on their screens, correct?

A. They are going to communicate back and forth. Obviously more when you get to a tactical sense, you got to pass more data back and forth, but for this instance, yes, he--they would talk back and forth.

Q. Okay, and that--that would be the case even if it was a fully qualified Workload Share Operator on that stack, correct?

A. Yes, sir, if I was sitting there it would be the same type of discussions going back and forth.

Q. And that wouldn't be inappropriate, correct? To have that back and forth between the operators, discussing what they were seeing and what they were doing, correct?

A. Yes, sir, as long as it--if they started talking about some other issues that didn't involve with Sonar, yes, sir, that would be inappropriate.

Q. It would be appropriate for them to talk about what they were doing at that time, but not, for example, about their date last night, correct?

A. Correct, sir.

Q. Okay, and while you were supervising, the 9th of February, these two guys, Rhodes and Bowie, were talking--when they talked, it was about what they were doing on the job, correct?

A. I believe, so. I don't recall any weird discussions, so I don't believe they were talking about that.

Q. And if they had talked about their dates last night, or whatever, you would have cut that off immediately, correct?

A. Yes, sir.

Q. And you don't have any recollection of that happening, do you?

A. No, sir.

Q. When I asked you if you thought this watch was stood appropriately, other than the fact that SN Rhodes was not qualified, you can't point to anything that was not done correctly, in your mind, correct? In Sonar.

A. Everything that we did in Sonar, to the best of my ability, was done correctly. I don't think, for like SN Rhodes, I could have been sitting there, I don't think I would have done anything differently than he was doing.

Counsel for CDR Waddle, party (Mr. Gittins): Okay.
Thank you, sir.

Counsel for LCDR Pfeifer, party (LCDR Stone): A couple questions, sir.

PRES: Sure.

Questions by counsel for LCDR Pfeifer, party (LCDR Stone):

Q. Petty Officer McGiboney, I want to kind of talk about the watchbill here, just for a couple of seconds, I only have a couple of questions, okay? I think somewhere lost in your testimony, and as VADM Nathman brought out that about 9 of 13 or some of those people in this 1200-1800 watchbill weren't the individuals that were standing at that time, okay? I mean you just accept that VADM Nathman----

A. Yes, I didn't go around and check everything, sir.

Q. You would agree with me that on a typical watch for the GREENEVILLE, that that is an aberration, correct? I mean you're not going to see----

A. That would be very strange. I mean no--you're not going out constantly and doing 9 people out of 13 off the watchbill differently. If you go--you're leaving to go out somewhere, there's watchbills and you're following all the watchbills.

Q. And that's--so this situation on 9 February would seem to be an aberration with regards to the 3 and a half years that you've been onboard the GREENEVILLE?

A. I believe so, sir. I don't see that that often.

Q. I mean it's not the standard that you would believe, would come to expect?

A. No, I don't think that's a standard we'd go by.

Q. Okay. Now you're aware of the large publicity regards to this hearing as well as the incident, correct?
A. Yes, sir.

Q. Okay. With regards to the watchbill and as much attention that it's been caused, would you--would you agree that to a certain degree that this is somewhat an embarrassment to the GREENEVILLE?
A. Yes, sir, it is a big embarrassment.

Q. But that's not the necessary focus--well let me just withdraw that. You would agree that a lot of the watchbill is embarrassing?
A. Yes, sir, but that would not have caused the collision.

Q. I'm not even--I'm not even discussing that though. Just the fact that that is as a member of the GREENEVILLE team, you would feel that also--that also would be embarrassing?
A. It would be em----

Q. That this, the watchbill, and the facts?
A. Yes, sir.

Counsel for LCDR Pfeifer, party (LCDR Stone): I have nothing else, sir.

Counsel for LTJG Coen, party (LCDR Filbert): No further questions.

PRES: Alright. Counsel?

CC: Petty Officer McGiboney, you're directed not to discuss your testimony in this case with anyone other than a member of the court, the parties, or counsel. You will not allow any witness in this case to talk to you about the testimony he has given or intends to give. If anyone other than counsel or the parties attempt to talk to you about your testimony in this case, please make the circumstances known to me. Do you understand?

WIT: Yes, sir.

CC: Thanks Petty Officer McGiboney, you're excused.

PRES: Petty Officer McGiboney, you did a fine job.

WIT: Thank you, sir.

[The witness withdrew from the courtroom.]

CC: Sir, the court calls LT Van Winkle.

[The bailiff did as directed.]

Mark Van Winkle, Lieutenant, U.S. Navy, was called as a witness for the court, was sworn, and examined as follows:

DIRECT EXAMINATION

Questions by Counsel for the Court:

Q. Could you state your name, spelling your last name for the record please?

A. Name is LT Mark Van Winkle.
V-A-N-W-I-N-K-L-E.

Q. And what's your duty station?

A. I'm the Combat Systems Officer onboard USS GREENEVILLE.

Q. How long have you been onboard USS GREENEVILLE?

A. 35 months.

Q. Have you been the Combat Systems Officer that entire time?

A. Yes, that's correct.

Q. Can you describe your duties and responsibilities as the Combat Systems Officer?

A. Yes. Duties are for three divisions. Fire Control Division, Sonar Division, and also the Torpedo Division. Also in charge of training officers for tactical readiness.

Q. Approximately how many people do you supervise in Combat Systems?

A. Approximately 35.

Q. Could you describe your role in training and qualifying the people that work for you?

A. One of the roles is ensuring that we have adequate classroom training for the department, there's 1 hour department training every week, additionally we have one hour of class room training. In addition, to that we have training in our Attack Centers, which we go up to NSTCP, Naval Station Training Center Pacific, and train with the trainers up there. Also we have on the job training, which is evolutions, and also ensuring that the officers are trained, via officer training, and also the attack centers.

Q. Okay, and as the Combat Systems Officer, you are a Department Head onboard?

A. That is correct.

Q. And as a Department Head, do you monitor the qualifications of the people that work for you?

A. Yes, I do.

Q. So at any given time would you know the qualifications of--the status of all the folks that work in your department?

A. Yes, that's correct. I would know via we have a qualifications status records that we maintain. One for training records that tells me that status of the qualifications of people working underneath me.

Q. How often do you review that?

A. Weekly.

Q. So is it fair to say that you know that--who in your department is delinquent?

A. Yes.

Q. Would you know that for all the divisions that you supervise?

A. Yes.

Q. Is the--is the underway watchbill routed to you for review?

A. The underway watchbill is routed for me for review.

Q. And how do you get input to that watchbill, do you get it from your division Chiefs, or your leading petty officers, how do you get the input to put that together?

A. The Division Chiefs go give input to the Chief of the Boat, Chief of the Boat generates the watchbill, and the watchbills are routed through all of the Department Heads, the XO, and then the CO, or correction, XO, and I believe the CO also checks it.

Q. So when you review a watchbill, you're reviewing your particular section, the watchstanders that belong to your department in Combat Systems?

A. That's correct.

Q. I'd like to turn your attention now to Exhibit 41. This is GREENEVILLE's underway watchbill on the 9th of February 2001. It says WEPS here and it has a signature. Is that your signature Lieutenant Van Winkle?

A. Yes, that's my signature.

Q. So, you reviewed this watchbill before it was promulgated?

A. Yes.

Q. I don't know if you can see it here and we can certainly bring it over close to you. But it has a SN Rhodes listed standing the 1200 to 1800 watch on the 9th. Did you know when you reviewed that watchbill that SN Rhodes was not qualified?

A. I knew that SN Rhodes was not qualified. I did not catch it on the watchbill that he was assigned for that slot, 1200 to 1800.

Q. If you had noticed that, what would have done?

A. I would have asked to have a qualified person inserted in his place.

Q. We've heard some testimony over the past weeks about a common practice, if you will, onboard GREENEVILLE and perhaps other submarines in Pearl Harbor to allow unqualified watchstanders in Sonar to stand the watch under the supervision of the Sonar Supervisor. Are you aware of that common practice?

A. I was not aware that is was a common practice. Back in 1998 there was circumstances where I was aware of that. I was not aware that they were continuing on.

Subsequent to February 9th, I've learned that they were doing this on occasion to substitute unqualified personnel in that slot.

Q. Before February 9th or before you found out about this, was it your understanding that anybody who was standing watch in sonar would have been fully qualified?

A. Either fully qualified or have an under instructor watch--have an over instructor watch for his watchstation.

Q. So if this court has heard testimony of the past 2 weeks that some of your division--either your Division Chief in Sonar or your leading petty officers were routinely allowing unqualified watchstanders to stand the watch. Would that surprise you?

A. It would surprise me. Obviously, it appears that it occurred.

Q. I'd like to again direct your attention to the 9th of February. Were you onboard GREENEVILLE at the time of collision?

A. No, I was not. I was up the Attack Center at NSTCP.

Q. And what were you doing up at the Attack Center?

A. I was working with Fire Control Division, Sonar Division, and also some of the officers to get ready for deployment. Basically going through attack trainers simulating various scenarios that we might encounter while we're on deployment.

Q. How many people from the Weapons Department did you have with you--or Combat Systems Department?

A. Approximately 18.

Q. How many of those were Sonarmen?

A. I would estimate somewhere around seven or eight.

Q. Were there any other Sonarmen that were not at training with you, they were off the boat that day?

A. We had one Sonarman that I'm aware of. He was just checking onboard and he had to complete his check-in process. I believe he was at household goods at that time.

Q. Do you know how many total folks in the Combat Systems Department were not onboard GREENEVILLE on the 9th?

A. I would estimate, sir, around 20--around 21.

PRES: RADM Sullivan?

MBR (RADM SULLIVAN): Good morning, WEPS.

WIT: Good morning, sir.

Questions by a court member (RADM Sullivan):

Q. When you're training up at NSTCP, were you doing section tracking type evolution.

A. It was actually in the morning, it was classrooms where various divisions and various officers were going through separate classes. Then in the afternoon, we transitioned to an Attack Center where we did, basically, everybody that was off the boat was up the Attack Center going through these scenarios.

Q. How long had it been scheduled to be done, the trainer? Before you left on EASTPAC or when you got back?

A. The attack trainers; originally the week was scheduled completely for basically getting ready for POM, sir, basic Attack Centers. Subsequent to that, there was some discussion about the possibility of getting underway on Friday for an ORSE work-up. And then subsequent to that--kind of if we were going to leave the next Monday and then also this training cruise came up for Friday, so they decided to split us out from the boats. The boat could do the cruise and we'd additionally get our originally scheduled training.

Q. You say they, were you part of that decision?

A. I was not part of that decision to split out the Attack Center from the cruise. However, I would approve the decision to get the training done for the crew.

Q. Your assessment, how was the training?

A. The training at the Attack Center was productive and useful.

Q. Master Chief Anderson who works up there at NSTCP wrote a memo discussing watchstanding conducted on USS GREENEVILLE on the day of the 9th and it was provided by you XO's counsel. One of the individuals he talked to was Senior Chief Gross.

A. Chief Gross, yes, sir.

Q. He's your new Sonar Chief?

A. He is my new Sonar Chief, that's correct, sir.

Q. One of the statements in here, he mentioned, he had noted numerous deficiencies with Sonar training and that he was in progress correcting. Can you elaborate on that at all?

A. Our Sonar Division has had a bit of turnover. Over the last year, we've had two of our three First Class' leave and we've replaced them with new personnel, so what we've done is we--this attack trainer was part of our efforts to ensure that we were going to get ready for deployment. Essentially, throughout our Selected Reserve Availability and also we were getting into our POM upkeep period. We were working on ensuring that all the personnel in Sonar were brought up to speed and ready to go out on deployment.

Q. Recognizing that the USS GREENEVILLE, you've been on there as you've mentioned quite a while, you've obviously deployed with the GREENEVILLE, correct?

A. Yes, sir.

Q. Recognizing the GREENEVILLE's schedule, it has just finished recently an SRA and had just recently come back from EASTPAC. In the time you've been onboard, you've seen a big change in Sonar, I'm sure. And also the readiness of your Sonar Division and as you've alluded to where you were in the process of getting ready to deploy, deploy, post-deployment; if you could compare the Sonar Division you had operating during the WESTPAC to what you had right now, what's your thoughts on that?

A. When I first came onboard I was fortunate enough to have an incredibly strong Sonar Division. We went through a deployment. We went through all the turnovers and we still have, in my opinion, a very strong Sonar Division. I did believe that we needed to work on ensuring that we got up to speed for the deployment.

I was not so much concerned as these are unsafe operators or anything of that nature. It was more of let's bring them up to the next level and ensure that they're ready to perform the task that they need to do out on deployment. At no point did I ever think that Sonar Division's readiness or training had dipped to an unsafe level.

Q. And certainly as you reflected on the 9th of February events, operating out here locally south of Oahu, that should not have been a significant challenge to you guys.
A. No.

Q. One of the things that Senior Chief Gross talks about is the ability for Sonar Division to do TMA. Did you see that also as a weakness?

A. We always need to improve on the TMA. Definitely had room for improvement and again I wouldn't characterize it as a significant weakness that the guys in there didn't know how to do TMA. But that was definitely something we were constantly working on because that's a very difficult subject.

Q. So is it fair to say to be good at TMA you have to practice it?

A. It's a continuing process, yes, sir.

MBR (RADM SULLIVAN): Thank you.

WIT: Yes, sir.

MBR (RADM STONE): Hey, Weps, good morning.

WIT: Good morning, sir.

Questions by a court member (RADM Stone):

Q. You've been onboard for over 3 years?

A. Just under 3 years, sir.

Q. Earlier, we heard testimony to the effect that the newly reported person, when he checked onboard was told by a Chief that the standard was it wasn't required to have fully qualified watch to be continuously manned on one of the Sonar watchstations. Does that come as a surprise to you that that was the standard that was passed on?

A. Yes, it is. It's a bit of a surprise, obviously, in retrospect.

Q. And as you stated, when you looked at the watchbill and reviewed it, you were unaware that Rhodes was unqualified. Is that what your statement is?

A. I was aware that Rhodes is unqualified in the general sense. I did not catch it on the watchbill that he was on there for that slot.

Q. And the reason you didn't catch it, do you think, it just oversight?

A. Oversight, yes, sir.

Q. What process do you have onboard GREENEVILLE for-- what tools to you have at your disposal to know who's qualified and who's unqualified? Do you have a list?

A. We have a watch qualification binder, it's maintained in the Control. For each watchstation there was a list of individuals and whether they're qualified. And if they're not on the list they shouldn't be on the watchbill.

Q. And how many folks are there in WEPS roughly for your department?

A. Roughly 36 or 37.

Q. 36 people. How would the CO or the XO onboard GREENEVILLE know if somebody was unqualified? Do they have some list or some tools available to them when the watchbill comes through for chop and approval?

A. They would be able to look at either the watch qualification binder; or if they wanted to see the individual division's qualification records they could do that too.

MBR (RADM STONE): Thank you.

WIT: Yes, sir.

Questions by the President:

Q. Is the Chief of the Boat considered the--I don't know how to say it, but is he final QA check before it goes to the executive side or before it goes to the XO or CO?

A. Well, obviously the Department Head, I would be a QA check, because I'm a signatairee.

Q. What's the role of the Chief of the Boat then in preparing the watchbill?

A. The Chief of the Boat, and it's my understanding he gets his inputs from the Division Chiefs.

Q. Okay. But, I just want to make sure what is his role, then, in terms of preparation of the watchbill.

A. He is the drafter of the watchbill.

Q. He drafts the watchbill.

A. Yes, sir.

Q. So, he would have some working knowledge of who was qualified, not qualified?

A. Yes, sir, he would.

Q. He has those same tools that you had in terms of who was qualified or not qualified?

A. Yes, sir, he would.

PRES: Alright. Counsel for CDR Waddle?

CROSS-EXAMINATION

Questions by counsel for CDR Waddle, party (Mr. Gittins):

Q. LT Van Winkle, you indicated you were aware that SN Rhodes was not qualified to stand that watch?

A. That's correct.

Q. But, you didn't catch the fact that he'd been placed on the watchbill when you reviewed it?

A. Exactly.

Q. If you had caught it, you would have made a change, correct?

A. Yes, I would have recommended that the COB make the change and would have made the change.

Q. And your testimony was also that you were not aware that it was a practice in the Sonar Division of using unqualified watchstanders to stand watches without over instruction personnel, correct?

A. That's correct. As I mentioned earlier, a couple years back there were some instances of that that I was aware of.

Q. Okay. You were not aware that that was a continuing practice in the Sonar Division on your ship?

A. That's correct.

Q. And had you been aware of that as the Weapons Officer, you would have corrected that conduct, correct?

A. Yes.

Q. Because you knew it wasn't right?

A. Correct. I would have definitely discussed it over with the Chief of the Boat and the Divisional Chief to find out what their logic was behind that.

Q. You would have done what any good Department Head would have done. Find out what the problem is and why do we have a problem, correct?

A. Yes, sir.

Q. And then correct the problem?

A. Yes, sir.

Q. And if you couldn't correct it, you'd bring it to the attention of the XO or the CO, correct?

A. Correct.

Q. Based on your knowledge and experience on the GREENEVILLE, if the CO or the XO were aware that unqualified watchstanders were standing watches without over instruction watchstanders, you believe they would have taken action to correct that don't you?

A. Most definitely.

Q. These two guys, LCDR Pfeifer and CDR Waddle, had pretty high standards, wouldn't you agree?

A. Yes.

Counsel for CDR Waddle, party (Mr. Gittins): Thank you, no further questions.

PRES: Counsel for LCDR Pfeifer?

Counsel for LCDR Pfeifer, party (LCDR Stone): Sir, I don't have any questions.

PRES: Okay. Counsel for LTJG Coen?

Counsel for LTJG Coen, party (LCDR Filbert): No questions, sir.

PRES: Alright. Go ahead and warn the witness.

CC: Yes, sir. LT Van Winkle, you're directed not to discuss your testimony in this case with anyone other than a member of the court, the parties, or counsel. You will not allow any witness in this case to talk to you about the testimony that he has given or which he intends to give. If anyone other than counsel or the parties attempt to talk to you about your testimony, would you please make the circumstances known to me please.

WIT: Yes, sir.

CC: Thank you for your testimony, you're excused.

WIT: Yes, sir.

[The witness withdrew from the courtroom.]

PRES: The court will be in recess until 1300.

The court recessed at 1133 hours, 16 March 2001.

The court opened at 1300, 16 March 2001.

PRES: This court is in session. Counsel for the Court?

CC: Let the record reflect that all members, parties and counsel are present. LT Mark Fulton who was absent from this morning's session is again present. The court has no procedural matters, sir.

PRES: Counsel for the Parties, any procedural matters?

Counsel for CDR Waddle, party (Mr. Gittins): No, sir.

Counsel for LCDR Pfeifer, party (LCDR Stone): No, sir.

Counsel for LTJG Coen, party (LCDR Filbert): No, sir.

CC: Sir, at this time, the court calls LCDR Dave Werner, the SUBPAC PAO, to the stand.

[The bailiff did as directed.]

David E. Werner, Lieutenant Commander, U.S. Navy, was called as a witness for the court, was sworn, and examined as follows:

DIRECT EXAMINATION

Questions by Counsel for the Court:

Q. Commander, would you begin by stating your full name and spelling your last name for the record?

A. David Evan Werner, W-E-R-N-E-R.

Q. And what is your current duty assignment?

A. I'm the Public Affairs Officer for Commander Submarine Forces, U.S. Pacific Fleet.

Q. CDR Werner how long have you been in that assignment?

A. I've been in that assignment since July 1998.

Q. Could you describe for the court what your duties and responsibilities are?

A. My duties and responsibilities in a nutshell are to assist the Commander, RADM Konetzni, to successfully lead and manage through effective two-way communications. Painted with a broad brush but there's a lot of different aspects to that, but that's kind of how I keep it narrowed.

Q. Would you describe for the court the lay out of your office in terms of personnel staffing?

A. Yes, sir. My office here in Hawaii would consist of a Deputy civilian that assists with embarks and serves as my backup. Does a lot of catch-all type of things. We have an admin assistant who also helps arrange tours. We have a Senior Chief Journalist that is the Force Journalist that helps with some of the stories and some of the other things, but largely is dedicated to maintaining the web page for the Force and assisting all the other web pages that come through. We have a Second

Class Journalist who writes stories and helps us on leg work, shoots images, different things like that, a lot of the logistics required. His relief is onboard and has been, a long turnover there, she's been there for a couple of months so she's in excess but she does the same type stuff, gives us a little bit more flexibility. And we do have a Draftsman that also works in our office that does a lot of the Force Draftsman type work. Art work, graphics, things like that. In San Diego we have a Lieutenant, 1650 designated Public Affairs Officer. She has a First Class Journalist that helps her as well as another journalist who has recently reported as his relief.

Again, a little bit of overlap, which is good. And in Bangor, we have another 1650 designated Public Affairs Officer who does not have any Journalists, although they are negotiating with Region to try and get him some help, he's a one-man shop. Group SEVEN in Japan we do not have any designated 1650 Public Affairs or even a dedicated Public Affairs Officer, he's collateral duty, usually the Exercise Officer or somebody that can help in that fashion but not a dedicated Public Affairs Officer.

Q. Seems to be a pretty huge area of responsibility to cover. How do you coordinate public affairs throughout the various submarine groups, the squadrons and individual submarines?

A. Largely the same way that anyone else communicates, with emails with messages with phone calls. The one thing that separates our job in public affairs, a little bit more than most, would be the urgency with which we have to respond to things and the very high-visibility arena. That is to say media or maybe Flag matters or different things like that. We've got pretty good conductivity, certainly between my office that in San Diego and that in Bangor. Japan, somewhat, again, those guys travel a lot and they report via 7th Fleet up the chain that way so we help when asked, but that's largely how we communicate to those offices.

We have a system of various updates. If things are going on they'll call or give me emails and keep me abreast and I in turn keep CINCPACFLT abreast of what's going on. In some cases, I may have to keep CHINFO, depending on the nature of the urgency and the media. It could be more

furious with respect to types of communication and everything else.

Q. I'd like to focus your attention now on SUBPAC's Distinguished Visitors Embark Program. Could you describe for the court the purpose of that program?

A. Yes, sir. I'd like to step back and put it in context a little bit, only because it's part and parcel to an overall public affairs program. For the record, I'd also like to say, because I think it's relative with the discussions read in the day, a little bit more about my background, which is to say--surface ship for 3 years, served through the departments there. I was on staff for a year and a half, from there I went to Recruiting Command as the Deputy Public Affairs Officer, where about 6 or 8 months later the head billet was gapped, they allowed me to fleet up so I got to be the Recruiting Command, Public Affairs Officer, which is normally a Commander or Captain, but I actually got to execute those duties for about a year and a half, so I was very closely familiar with that.

From there I got to do a little bit of public service advertising while I was waiting for a carrier to open up. I was Director of Public Service advertising for the Navy for about 10 months. Went to the CARL VINSON battle group, participated as an afloat carrier PAO there and for the associated battle group as well, so I got that experience and then came here a couple of years back.

I think it's important because I've gotten to see how different programs work throughout those different arenas, all of which are important. In terms of how the DV program works at SUBPAC, part and parcel to a larger program, as I said earlier, my job is to help RADM Konetzni successfully lead and manage through effective two-way communications.

When I got to SUBPAC, the Admiral and I sat down, he had some concerns and he wanted me to help him lead and manage through communicating a few key issues. Some of those issues, first and foremost were the number of attack submarines, in that there is a growing disparity between the increased appetite for attack submarines with respect to the missions they do, secret missions mostly, and the number of platforms. Which is to say we continue to go down, I think we're down to 25 now in the Pacific.

That was one. Another was SSBN conversion, taking the oldest four SSBN's possibly converting them because of their relevance against stewardship of tax payer dollars all the good reasons why America and their leadership should consider at least the value of retaining those in a new--with guided missiles.

A third thing was recruiting. Because--with respect to the all-volunteer force and everything else, particularly with nuclear qualified prospects that pool is getting smaller and smaller and it's getting harder and harder to man our force. Particularly in the booming economy and with all the different competing priorities out there. So, recruiting was another big issue that he wanted me to focus on. Retention and attrition, very, very big, that was a message that goes both internal and external, but he asks that we focus all of our efforts that we could on that, and the fifth and final would have been engagement, and that was largely engagement overseas.

He also took the opportunity to stay engaged with the public and engage each other and engage other communities because for too long the submarine service had been operating exclusive to just about everything, in his experience, and he thought it was time that we let everybody else know what we were all about and what capabilities and contributions submarines offer.

So, that was the umbrella under which my programs were to work. In public affairs you have three basic legs in a public affairs triad. You have Public Information, stuff like dealing with the media, writing external releases, WEB page, anything that gets information out into the public. You've got Internal Communications, speeches to your internal audience, internal events, newspaper, region newspaper, Hawaiian Navy News, maybe Trident Times or Northwest Navigator Compass in San Diego. Those types of avenues to feed information to families.

A lot of that has been usurped a little bit by IT, which is a good thing. People communicating directly, so information is getting out but that still exists. The third and final, in which the DV and visitor program and embarks fall, is Community Relations. Submarines have unique opportunity with namesake where they're named after cities. So, we have namesakes where we take people from America to the submarines we take folks from the

submarines to those cities and keep that relationship going. We also have visitor programs, boat tours and embarkations and we have, again, Webs, events, a lot of anything that touches various communities. So, you have these types of programs and its three legs, all of which are focused towards meeting our obligation to educate the public and to enable better understanding about what submarines are all about and what the condition of the American Submarine Force, Pacific Submarine Force specifically, what condition it's in right now.

Q. What specific guidance do you have at the SUBPAC level with respect to DV embarks which shapes or guides the embarks for your Groups your Squadrons and individual submarines in SUBPAC?

A. Well, we have the various instructions. SECNAV instruction, you have the OPNAV instruction, CINCPACFLT instruction. We have an Annex Foxtrot to the Joint OORDER for SUBLANT and SUBPAC and that gives guidance about how you go about doing those things. An embark request can come from the bottom up or they can come from the top down to get civilian distinguished visitors or media or anyone, congressional members, underway. We do some training when Commanding Officer's first report in their perspective Commanding Officer course, we touch on it there, I wouldn't say we thrive on it, we focus on media and public affairs in general.

We also, prior to a boat getting underway, we will typically send a message authorizing the civilians with their SSN's, their social security information and then some basic limiting guidance. We don't tell the boats or the Commanding Officers what we expect but rather we limit--what the guests can't do. Limits to unclas, limit to the Radio Room, can't go back aft, nuclear propulsion information. You can go in the Torpedo Room and you can--those types of information, and we say basically, that their encouraged to demonstrate capability of the submarine and give the visitors a first-hand experience in understanding of the capabilities of the submarine.

Q. Just let me clarify, where is that guidance contained?

A. That specific guidance?

Q. Yes.

A. SECNAV instruction lays out very specifically information that has to be given to the guest before they arrive. And we do that in a letter to the folks. In terms of what they can and can't do, some of that is, first of all, confidential. The Security manual says you can't have people back aft. It's our practice; I couldn't cite verse and reference to you I just know we don't let people back there without need to know. In terms of what we put in that message, those are basic things that we want to make sure the boats support.

Q. Okay, so that's a message from you SUBPAC down to the boat?

A. That's correct.

Q. Where you outline exactly the do's and don'ts.

A. We outline the don'ts more than anything else. And, "Oh, by the way, we'd like you to show them first hand, give them a first hand experience and demonstrate the capability of the submarine when feasible".

Q. I think you testified that a DV embark can be arranged from the top down or the bottom up?

A. That's correct.

Q. So, it can originate with an individual boat itself?

A. If a boat comes across somebody that they would like to get underway, who they feel is a visitor of note or that may have influence over other--and again--what's the definition of distinguished? Well, I look at those five things that we try to achieve. Okay, we want to influence understanding concerning the need for a commensurate number of attack submarines with the increased appetite for their secret missions. SSBN conversion, you know, if they are going on SSBN's, look around this things got 20 years of life left on it's hull, should we cut it up or should we invest pennies on the dollar to use this as part of our national inventory.

Again, not going one way or the other, but saying, did you know this is the case, we're going to chop up this perfectly good submarine and this is the situation. Does the person, can they help with recruiting efforts? Can they positively influence and this is the case for a lot of the names. Let's say, a football star. You know, "Hey, I happen to have a guy"--Desmond Howard was re-

enlisting one of the guys on one of the boats. They wanted to get the guy underway and show him. So, we ended up getting from the bottom up, got Desmond Howard. And oh, by the way, a whole bunch of schoolteachers and kids that had a partnership in excellence program with one of the boats. That would be an example of from the bottom up. Helps with recognition. That's part of the reason you asked earlier about distinguished visitor. Three things and three specific distinctions, you have all these different programs, each has its own value to the program. To this very broad reaching program. Distinguished visitor embarks and you can argue tours, to a degree, offer three distinct things.

One, because of the nature and the scope of the visit. Okay, if you read a media report, a positive media report on a submarine. It goes out everywhere, let's say the front page of the Wall Street Journal. Reaches a lot of people, a lot of influential people. How much impact does that have? It might have some, a little bit. How much understanding will that enable? A little bit.

Now, if you get somebody down on a submarine and even underway or they get to see the equipment being operated, talk to these relatively young sailors, see the technology they're using, see how hard they work, the conditions under which they live, and the sacrifices they endure. And, oh by the way, the unique capabilities, we are under water right now looking through a periscope, nobody even knows we're here. All of a sudden you see a light bulb go on. So, whereas a media report may be a mile wide and an inch deep, these visit programs go maybe an inch wide, 15, 16, maybe 30, whatever it is people, but it goes a mile deep. That stays with those guys for a very long time. That's one reason we do it.

Another reason we do it is--you know back in recruiting we used to wring our hands back in the mid-90's because the unemployment models, the models for recruiting we had were based on an unemployment model of 6%. We were worried about what was going to happen when it got down that low. Now we're down at 4% until this week or the week before. A perceived booming economy where all these kids that were dying to get in--even if you were qualified prospects because you have to have a decent record, you have to have decent ASVAB scores, the enlistment scores.

We're competing for all these kids in this booming economy in an all volunteer force where for the last 25 years the only people who have served, fewer, and fewer, and fewer are in a position to influence those kids and say that the military is a viable option. That cuts both ways. So, by getting people on the ship if their a parent, if their a teacher, if they have connections in anyway with potential prospects, as far as I'm concerned, they are someone we want to get down and demonstrate either underway or in port about the unique opportunities and advantages. And unique, really unique. You can do anything you want on Wall Street, but only a very few special people get to operate submarines and qualify for submarines. That's the second consideration.

A third consideration, and being the media guy it's my responsibility to roll through to some of the media. One of the things that's been bugging me about some of the reporting surrounding distinguished visitor programs, I think that people have failed to miss, is the recognition value.

When we talked about those five things, two of those things, one of those is recruiting, retention and attrition is critical. You know, these guys work their tails off, you know, 365 days a year and usually they're doing it next to themselves. Just working long hours, 18 hour days, when you get some folks down there either on an in-port tour or an underway and these people, maybe they fly in from the mainland out here to Hawaii just to see what these guys are doing. Someone might be well off, some might be important figures, might be football stars. You get them underway and all of a sudden that sailor says, "You know this guy came all the way out here to see what I'm doing, it must be kind of important, it makes me feel that much better". Get their picture taken with the guy.

Same thing with congressional staffers. You have congressional staffers come all the way out here, when they do that, okay the guy might be young, he might just be a bit player on a Congressional staff, but you know what? That guy is from my district and I have an opportunity to not only demonstrate what I'm doing but also to get the ear of my congressman and a captive

audience. It's a very good opportunity. So, those are the three things that we're considering.

Q. Commander, I know you're enthused about the program, but we need you to slow down for the translators, they're having a hard time keeping up with you. I want to talk specifically about who arranges the embarks, I'm assuming you as the PAO at SUBPAC, you do the coordination for the embarks?

A. Yes, sir my office is largely the conduit through which stuff flows.

Q. So, your office reviews the requests that come in?

A. Yes, sir.

Q. Who's the final approval authority at SUBPAC?

A. The Admiral or his designated authority. If he's underway I'll work through the Chief of Staff. I will tell you that it's been our posture, in one word, to be as opportunistic as possible. Because, again, most people are going to fit those categories, if we can enable understanding and educate folks the answer is going to be 'yes' unless there is a reason that we can't.

Q. Based on the category of DV, are you required to inform anyone else in the chain of command that you are setting up a DV embark or is it RADM Konetzni's decision alone?

A. My understanding from the CINCPACFLT instruction is it is his decision, that he is delegated the authority to embark civilians, however, prudence, if I've got national media onboard, typically I'm going to let Fleet and CHINFO know if it's something that may impact one area geographically or another I'll give them a heads up. Recruiting is another one. Again, the idea is not to just get them underway and get them that understanding, but to leverage that. If they're from the University of Kansas we might check with NRD Kansas and say we got this guy administrator, you might want to----

Q. In the main, it's SUBPAC who approves?

A. Yes, sir.

Q. How do you select which boats are going to participate in the DV evolution?

A. It's very simple. What we do is we get a need. We want to get these people underway. And it depends on how

many variables there are. How many people are you talking, what restraints are you talking. Are we looking at a window or specific date? What are the level of visitors? And then you take that, you put it in one big note and you go to the squadrons. We go to the three squadrons and to our SSBN coordinator in the event there happens to be an SSBN pulling into the area at that point. We say here are the parameters, the variables, does anyone have a submarine that could support this? And they come back, and you know again, fewer and fewer submarines the ones that are remaining are either deployed, being torn up for maintenance or in need or deployment training site. And there are various stages of prepared and readiness and it's up to the squadrons to determine if they can support it, if they want to support it. And then they negotiate that with the boat and say we do or we don't have anybody to support it and it comes back to us that way.

Q. I want to direct your attention to the 9th of February.

A. Yes, sir.

CC: [Looking at President.] Do you want to ask questions?

PRES: Yes.

CC: Alright, sir.

Questions by the President:

Q. What I want to know is how GREENEVILLE managed to get selected for this particular DV embark. We've already heard testimony that GREENEVILLE specifically was underway to support a DV embark only. I'd like to understand how that got scheduled, how the schedule changes from GREENEVILLE got rolled back up to your staff for a decision about whether it was appropriate or not to support a DV embark on GREENEVILLE.

I'd like to understand how you reconcile these DV embarks with guidance you get from the OPNAV instruction and the SECNAV instruction. I'd like to understand that. I'll ask some questions here on it in a minute. There's a fairly significant PA message out from RADM Konetzni to the force and one of the things he talks about in that

message is, basically give me feedback and we'll change things, we'll do things better. So, I'm interested also in what type of feedback you've gotten from your DV visits. What things have you changed? What guidance have you given in terms of things to do or not to do? You said there was some things not to do. Go specifically with the performance of GREENEVILLE on that day in terms of things she did. And I'd like to understand that.

I'd like to understand how you decide on the quantity and the quality of the visitor that you send on DV embarks. So, let's go back to GREENEVILLE, she got underway on the 9th of February. My understanding is that that was her only day underway, she got in that week before and so she got underway Friday specifically to support a DV embark. Where you aware of that?

A. I was made aware the day before.

Q. How do you reconcile that with the instructions that say not to do that?

A. Well, sir, the way I read the--it goes back to scheduling, if I may sir, can I take it back to when we started the schedule and I'll explain to you my paradigm with respect to how things work. And part of this is reconstructed after the fact but my understanding as to how things fell out so you'll understand my frame of reference for the 8th and the 9th.

Around the 23rd of January, I know that 'cause that was when the initial email went out, the Admiral approached me verbally and said, "Hey, ADM Macke's got some folks, they sound like pretty reasonable folks, just the kind we want to reach. Do me a favor, take a look and see if you have anything on the 9th. If you do great, if not try the 8th. If nothing works out, whatever, don't break china." That was the extent of the conversation. I said, "Roger that, sir." I took that as direction. As a naval officer, the boss says check it out if we have something great, if we don't, I took it to mean to give them a tour. Not a problem, so I go to my assistant, Rowena Obrero, who looks at the schedule, she went through and said--excuse me that's what she normally does.

In this case, she went up--we work in the Squadron Building, she went up to Squadron Operations right above us, talked to Squadron ONE, talked to Squadron SEVEN

operations offices both of them said they didn't have anything available that day. THREE was not up there which is the third of three attack squadrons and the SSBN guys work in another building. So, she sends an email to the SSBN operations guy and to Squadron ONE, asking if anybody had anything on the 9th as primary, 8th is a backup, don't break china, don't--just because it comes from the Admiral or something, don't worry about it, if you got something great. The very next morning, and again this is as I understand it to have happened, the Squadron Chief from Squadron ONE calls the GREENEVILLE who is currently on an EASTPAC underway and talks to the Executive Officer as I understand it, and says hey, we have an opportunity for an embark on this day. Would you guys be interested in doing that? I understand the boat considers it and comes back and says yes we would be interested in doing that. Again, that was under--as scheduled the--that they were getting underway that afternoon in support of ORS work-ups. It became known to me after all of this that in that same phone conversation the boat also came back and said we would prefer not to be underway that weekend. Was that conveyed back down, no. Public Affairs only role in this is, do you have a boat or do you not have a boat. We understood--when he hung up the phone, he understood that to be an okay, we'll lay the VIP thing on and we will get them underway on Monday based on what I know now. Again, you know a Chief has got to work a lot of times on his own and in this case I think the Operations Officer was on leave, the Commodore was underway, and the boat, of course, was out of homeport. So he amended the schedule because he has to make submissions to SUBPAC operators who send the water space management message out. He amended it; did he talk to the Commodore at that point? No, the Commodore was not available----

Q. Just a minute.

A. Yes, sir.

Q. He amended it to Monday the 12th?

A. Yes, sir.

Q. Okay, that was going to be their scheduled embark day then?

A. No, sir. He amended it there--amended it that there would be a VIP cruise on Friday and that the ship would now get underway on Monday.

Q. Your Chief did that?

A. The Squadron Operation's Chief.

Q. Okay, stop for a second.

A. Yes, sir.

Q. Don't go any further.

A. Yes, sir.

Q. Does Squadron ONE have an ADDU or a collateral duty PAO Officer?

A. No, sir.

Q. Don't you have an instruction out that designates that each squadron will designate a collateral duty PAO Officer?

A. We had a notice out, sir, that is--I know that was in the binder. My assistant put that in there. That expired after a one-year period I think, and then we've also this past year----

Q. Well wait. Is your intent to have squadrons have a collateral duty PAO Officer or not?

A. Yes, sir. In the fact of what we use--a 1650 PAO gets the media training and does all those types of things. For the purpose of the public affairs, we ask that they help us assist in touring and embarks and things like that.

Q. By designating a collateral duty PAO Officer in the Squadron, that's how they would assist right?

A. They would assist in scheduling tours and embarks--I'm sorry sir, I'm missing your question.

Q. You are because I'm trying to figure out how you do it. It sounds very ad hoc right now. You have a Chief that is scheduling right?

A. An Operation's Chief, yes, sir.

Q. An Operation's Chief. Your intent of your memo, I thought, or your notice, was to establish in the squadrons a Public Affairs Officer. Was that the intent of your memo?

A. Of the notice signed in 1997, sir?

Q. Yes.

A. Yes, sir. I didn't draft that--I--it expired not long after I got there and I did not reissue it, so I did not have an intent with respect to a----

Q. So you don't have any type--according to you there was no structure for a PA. It's either SUBPAC is the PA and then that's the PAO oversight for the boats. It is not done through the Squadron; it's done through SUBPAC.

A. That is correct, sir. I am the only qualified 1650 Public Affairs Officer on the SUBPAC staff----

Q. That's not my question. My question is, you have no structure for the PA collateral or ADDU except for the SUBPAC PA that resides at the force.

A. That is correct, sir.

Q. The reason why I am asking this question is because I want--so when you have an Operation's Chief that schedules the boat for an underway period on the 9th, he is not aware of your PA guidance about DV embarks is he?

A. No, sir.

Q. Only SUBPAC is.

A. That would be correct, sir.

Q. So how did you get notified if the ship was going to support a 9 February DV embark?

A. I'll continue in a chronological order if that is okay sir. Otherwise it will otherwise become even more confusing?

Q. Sure, as long as we get to the point.

A. Yes, sir. So in any case, they work it through the boat, the schedule is amended that way. It is submitted to the Operations Department at SUBPAC without the Commodore's approval at this point. The Operations Officer, LCDR Kline, comes back to the office and learns and this is the 29th, 30th of January, that in fact, the Chief has taken liberty of representing the boat of not getting underway that weekend and says, no backup, we understand that we're slated to be here, laying the template down going backwards with respect to what evolutions and exercises and everything that are required that will take us back through that weekend. They have to be underway that weekend. So now the Chief is like well I've already made the amendment once. If we make it

again, then the Commodore when he gets off the boat wants to change it again, why don't we let it go like this and then once we talk to the Commodore and he talks to the boat, we will make a final adjustment.

Q. "Let it go like this" means to leave the DV embark on the 9th?

A. On the 9th with the boat getting underway on Monday. Although it's understood there's a very good likelihood that it will fill back in, none of which was made aware to me and I don't know about ORS preps or workups or anything like that.

In any case, sir, a day or two later as I understand it, the Commodore comes into port on the ship he was riding. Again, pretty dynamic with the squadrons that are underway. He learns of the VIP cruise, he learns of the ORSE change and in his mind, no we got them that Friday afternoon for a reason. He said well hold everything; I want to talk with the boat. I will work with the boat and we will resolve this. He flies back to Hawaii. The GREENEVILLE pulls in on Friday the 2nd, and again all this is unbeknownst to the public affairs office, the Type Commander. He walks down, the Commodore and I understand the staff members that may have been onboard or not, walked down and talked with the Commanding Officer and some other folks about the merits of whether or not they should get underway that weekend in support of ORSE.

I understand that the case was made that during EASTPAC the ship has demonstrated the required exercises and evolutions and they and that they no longer had that need to get underway on the weekend. So at the point, the Commodore affirmed the schedule as changed which was to say they would be underway Friday for the embark--the VIP embark and then get underway Monday to conclude the ORSE workups.

Q. So, let me make sure I have this right. The Commodore was aware that the ship would get underway on Friday the 9th for the DV embark. We'll have the weekend in and then get underway on Monday for its preps.

A. Yes, sir. Now the reason, Admiral, I bring all that up is, attack submarines, I've been on carriers, I've been on surface ships, attack submarines have their schedules amended routine. I mean that's--it is just the

way they do business. They're exceptionally flexible. The crews are that way. Now having said that, we very much respect IDTC. I think even in the message in 2000, you could tell by the number of embarks--the fewer number of embarks, and I'll tell vastly so all those----

Q. I didn't ask you about protecting IDTC, so let's get back to the oversight of this particular visit.

A. Yes, sir. The issue is--I think the instruction says, within the framework of regularly scheduled operations. When I learned--I can't remember now if it was Wednesday night or Thursday morning when the XO called me and indicated that the weekend stuff had gone away it wasn't in my mind thinking, well let's stop doing this. Again, this is part and parcel to the way we operate submarines.

Q. Well, I would say it's parcel to your oversight. You don't have any oversight at the Squadron, so there is no way the squadron can make a judgment on whether or not this fits the intent of DV embarks because it only resides at SUBPAC. Would you agree or disagree?

A. I would agree that I had the oversight for VIP embarks, yes, sir. In terms of scheduling the boats and ascertaining their material operational readiness to conduct their own routine operations and CO discretionary time, I cannot make that determination.

Q. Exactly, so does that beg for oversight of the 1999--1997 instruction for squadron PA's--would that make a lot of sense to have squadron PA's?

A. Yes, sir. We would have to amend it also for the new support command that is been set up for a lot of stuff has shifted including the bodies, but yes sir I would agree.

Q. Okay. This way when squadrons made very rapid scheduling, which you've suggested happens very frequently as a matter of course for the Submarine Force that they would put oversight as to whether or not this fit the guidance. Specifically, the SECNAV Instructions--the OPNAV Instruction for Embarks. And since you're the only one that provides that oversight, when you found out they were getting underway for the 9th did you know they had the weekend off?

A. On the 8th--on or about the 8th, I knew they had the weekend off. Yes, sir.

Q. Okay. Did you in your staff oversight as the SUBPAC PA, did you provide this information to anybody else?

A. No, sir, I do not believe I did.

Q. In your mind, did the underway on the 9th fit the criteria that specifically the instruction says not to do, and that is to get underway? Do not conduct operations specifically in support of DV embarkations.

A. Sir, I believe the instruction says within the framework of regularly scheduled operations. My understanding of that is this was within the framework of regular scheduled operations.

Q. Could you explain that to me?

A. Yes, sir. We establish a framework whereby submarines get underway routinely and that schedule shifted in terms of if it was amended such that they pull in over the weekend and then get underway again for the same operation----

Q. Let's go back to the facts of the case.

A. Yes, sir.

Q. Why did GREENEVILLE get underway on the 9th of February?

A. Yes, sir.

Q. Why did she get underway?

A. Well to support the visitor program.

Q. It wasn't inside her regularly scheduled operations was it?

A. It was scheduled for such yes, sir.

Q. What was her operation? What was her mission on the 9th of February?

A. Well to support the visitor program.

Q. Okay.

A. Yes, sir.

Q. So that is why she got underway?

A. Yes, sir.

Q. Does that fit the framework of the instruction?

A. Again, sir, I would say it does. The framework of regularly scheduled operations. That was a regularly

scheduled operation, it was amended as such that the back half of it----

Q. So if you schedule one--Let me get this one right. If you schedule as DV embark, then that is regularly scheduled operations?

A. If the Commanding Officer concurs to it, sir, and doesn't disapprove it----

Q. The Commanding Officer doesn't have any choice. What does your instruction say? What does the OPNAV instructions say specifically about DV embarks? Regularly scheduled and has to occur within the framework of regularly scheduled operations.

A. Yes, sir.

Q. The only reason why GREENEVILLE was underway was for a DV embark. RADM Griffiths made it very clear, the--we've had several people make it very clear why she got underway. And what I'm asking you is as SUBPAC PAC in your oversight of that you should have made someone aware, okay this doesn't--in my view it doesn't fit the criteria, isn't even close. Why didn't you make that aware? I'm not saying the ship wouldn't get underway, because I think there is probably other reasons why the ship would get underway, particularly embarrassment to the Navy. You've already got these DV's in town so we are probably going to make a choice about to support that, but did you bother to tell the Chief of Staff that hey GREENEVILLE is going to be getting underway and it is just going to be for the DV embark?

A. At that point, sir, I did not tell the Chief of Staff.

Q. Because in your view it fit the regular scheduled operations?

A. It was no less more dynamic than any other embarkation we have ever done.

Q. Do you think the instruction is particularly supportive of embarks, DV embarks on U.S. submarines? When you read that instruction do you think that supports your ability to conduct embarkation's for DVs?

A. Which specific instruction, sir?

Q. The OPNAV instruction or the SECNAV instruction either one? More specifically the OPNAV instruction.

A. I would say that it supports it as much as a carrier or a surface ship. I don't think it makes a distinction between them actually.

Q. Well, I'll tell you my experience. I don't think we've ever gotten a carrier underway for one day just for a DV embark.

A. Yes, sir.

Q. Okay. That is the model for GREENEVILLE. So we are going to disagree on that.

A. Yes, sir.

Q. Strongly disagree on that.

A. Yes, sir.

Q. And that is my question, have you ever approached OPNAV for better guidance inside their instruction so that you can more properly support DV embarks?

A. No, sir. I have never had a reason to before now.

Q. Before now. Do you think there would be a reason to now?

A. Yes, sir. I think there certainly warrants looking at the entire distinguished visitor program.

Q. Okay. Let's talk about feedback from the different COs and Commodores on public affairs, specifically DV embarks. Did the boats share 5050s typically for DV embarks?

A. Typically, sir, I have not seen 5050s on submarines. I haven't asked for them. Typically the guidance that we've given was in the message and feedback from me. Typically if you have a new XO or a new Commanding Officer, they may have say hey what's good to do on this? Again, having the oversight and experience, my typical response is hey look you know whatever you need--we're going to give you whatever water whatever time you want. Just let them talk to the sailors. Just show them--demonstrate things on the ship and you know over to you. That's biggest logistical questions are can we put them in the crew's mess or do we have to break them into groups, and the answer is whatever works best for the ship.

Q. How about specifically, you said demonstrations, did you give them any recommendations on things that would be good to demonstrate to the----

A. No, sir. We just say demonstrate the capabilities of the ship.

Q. Would it surprise you that GREENEVILLE exceeded classification levels for depth and for speed on her DV embark?

A. That would be unusual, yes sir.

Q. That would be unusual?

A. Unusual, yes sir.

Q. How would you know if you don't get feedback?

A. I do get feedback sir, from the escort officers and from usually from the boats.

Q. And how have you shared----

A. And it is two way, sir. They call me and say here is what I had. What did you hear from the folks? Is there anything we can do better next time?

Q. Give me some examples of demonstrations or maneuvers or etcetera that you shared from one boat to the other. What have you suggested?

A. One thing is make sure that you don't set out the stuff for lunch before you do angles and dangles because they learned that things tip over. So I will remind them of that and it usually gets a chuckle, but more than one boat has done that in the past. Other things include making sure that you break up the groups into sufficient sizes so that they can not only handle them logistically, but just so that they can do things like here because some of the spaces are narrow in having the people. Other things from congressional embarks or whether their from a specific area, we recommend that--well they are coming from these states--oh by the way congressional folks, if you have anyone in that district it would behoove you during some of the quiet time that as you pull back in to make those constituents available to the Representative to get that direct feedback because I'm sure it will make it more worthwhile. Those types of things, sir.

Q. You've already talked about the quality of the visitors I believe, ADM Macke asked for it. You said you looked at the list. It looked like the right kind of people that you would want to have on a DV embark.

A. RADM Konetzni indicated that these were the right kind of people--that he normally has the right kind of people and that these were the kind of people he would like to get underway.

Q. In your view as PA, were they the right kind of people so that the quality of the visit was right for the DV embark?

A. Yes, sir. I will tell you what was good about the folks. One they are from Middle America from various states, Texas, Colorado, Kansas. We did have some local folks, and there were two that--one was a sports writer that joined late in the group. But they--again Admiral, when you're talking about centers of influence, which is what recruiting calls them. Folks that have a broad influence over people. Civic corporate leaders, business leaders, those are all good people--I mean--I take offense Admiral--this is a side note, but I also write reports that we only get people that have something to immediately offer in terms--I find it offensive. We take thirty thousand people. Educators, you name it that want to learn more about the Navy, so----

Q. So these weren't people that you saw as people the Navy was trying to pay a good deal back on, but I'm trying to understand, but they fit the quality mold. They fit the right level of visitor for your embark.

A. Yes, sir. They met--they--from what I could tell, they met the criteria to get people underway.

Q. Now I will give you a chance here to talk about, in terms of those kinds of folks, did--those were the kinds of folks I thought that you said, these are going to be particularly good types of folks that we want to have onboard and their more typically the type of visitors that you get on the DV embarks than what you've heard in the press?

A. I would say that there is no such thing as a typical person that gets underway. I will tell you that people that get underway from submarines in Hawaii typically are people of means only because they have to get their own way there. So that is a limiting factor in some cases. Now we've taken school kids out and school educators,

administrators, and nuclear propulsion candidate folks, media, again anyone that can influence those five things that the admiral, at the onset, said we want to positively educate America on these issues. Those are the types of folks we're looking for. And when you talk recruiting, retention and attrition and the need for a certain number of attack submarines. A lot of people fall into that category.

Q. What about the quantity of people? Is there a--do you guidelines for the number of people you put on an SSN, an SSBN?

A. Whatever the Commanding Officer feels comfortable that he can safely accommodate.

Q. Have you ever had feedback about hey we had 22 people in Control today. That visit was a little bit too big. Have you had feedback like that?

A. I have not had feedback, and in my experience, sir, riding on roughly--I don't have the count, but roughly half--at least half of the embarks it hasn't been a problem.

Q. Well, half the embarks----

A. With respect, other than with respect to comfort, only because it may get warm in some of the spaces where you may have more people and things like that.

Q. So in your view there has been no size kind of assessment in terms of the number of folks that ought to be going to an SSN or SSBN in terms of how they make it manageable or unmanageable for the crew or any potential impact on the crew. You just let the CO decide how many he takes?

A. We--I--yes, sir. Normally we would discourage bigger groups. If somebody says hey we're going to--we want to get our--I'm trying to think of any particular group, but we will discourage everybody from just inviting as many people as they can get out there. Typically we're going to limit it to something to which the boat is comfortable. If it's a new Commanding Officer or----

Q. Okay, I got that. I want to understand this though. This group that ADM Macke suggested was 18, 16?

A. It was actually 13, sir.

Q. Fourteen?

A. ADM Macke's group and there were two others. others.

Q. Did you talk to the boat at all--is this size about right for you or do you want more or less, or did you just say here is the size of the DV embark?

A. I think at the time of that the initial email went out, we said these are the parameters for the embark. I think in there we said ten or twelve and at that point we didn't have a firm number because before we went back and started working that; we wanted to ascertain if there was a boat that wanted to support it.

Q. I know about that. I am trying to understand; you said that you don't normally put limits on the size and you let the individually CO decide that.

A. Yes, sir.

Q. How did you let the CO of GREENEVILLE decide what size of group he could support? Did you ask him----

A. No, sir. I did not ask him sir, but that is well within the average of the ones we do. If he would have come back--or if the boat would have come back and said, we really can't support that many, then it's easy----

Q. So it's by negation. The CO has to tell you, this is too many folks.

A. Yes, sir.

Q. Is that a good way to do business; if you invite twenty two DV's from Texas and the CO comes back and says, I really only want eighteen, is that the way you're going to do business?

A. Well sir, again, we canvas the boat before we went back to the people. We went to the squadron and said we have about this many people--we didn't get a firm number, but your--it's a double edge sword, sir. If we go back to them and say how many you looking before we determine--if you really can do this--we need to know how many are getting underway and then go back so----

Q. Do you have any views on a boat demonstrating casualty maneuvers to DV's? Any views on those?

A. Sir, I don't feel I'm in a position to say what a boat feels safe about doing or not doing. I try not to limit what they do assuming that everything will be done within the bounds of safety.

Q. Can you get staff advice--can you--as a staff member and part of staff oversight, did you ever have these kinds of discussions with the N3 or the Chief of Staff about maneuvers the subs ought to be doing?

A. No, sir, I have not.

PRES: Alright. Counsel, do you have anymore questions?

CC: No, sir. I think RADM Stone has some.

PRES: Okay.

Questions by a court member (RADM Stone):

Q. I just want to follow-up on VADM Nathman's comments concerning the 9 February underway for DV only not meeting the criteria of being within the framework of regular scheduled operations.

A. Yes, sir.

Q. You had mentioned earlier in your remarks that one of the goals of RADM Konetzni in the five topics--as we deal in this area, defense resources being so scarce that one of your goals is to ensure proper stewardship of tax payers dollars.

A. Yes, sir.

Q. And so I would offer in support of what VADM Nathman was talking about not being within the framework of regularly scheduled operations getting an SSN underway for DV's only does not meet the criteria that you were given by RADM Konetzni to send the message of this proper stewardship of tax payers dollars;

Secondly, although there is some inherent training value and readiness value anytime you get a asset underway for ordinary operations--underway that our training is so valuable, but to send a boat underway for DV mission is not making the maximum use of that underway time to enhance our forces readiness in training;

And thirdly, taking a boat for the sole purpose of DV although it is a short day, 8 hours, 9 hours, it's one more day underway and has quality of life implications on our crews to do so. So I would offer you those three reasons for this board member's concerns over not meeting

the framework of the operational schedule for a boat and getting underway on 9 February for the sole purpose of DV ops. Those are my concerns. Do you have any comment on that?

A. Yes, sir, actually I do. With due respect, Admiral, we place a great deal of trust in the hands of the Commanding Officers, and in fact, leaderships of the boats and the squadrons. There are immediate--and you're right, we don't have enough time and we work very hard, with respect to IDTC, to return a lot of those days to Commanding Officers, CO's discretionary time. What do we say, Commanding Officers, we cannot tell you how to best, you know, we want to return time to you, so you can determine whether being in port, you know, doing a picnic, or getting underway, and doing ORSE preps all on your own is what's best for your crew, so we've given that time back to them.

With respect to getting the ship underway, I think one of the things that maybe I haven't made clear is, we go out and ask the squadrons to ask their boats--the Commanding Officers and the Squadron Commanders are the ones that they their immediate operational needs in training and the value of getting underway, and the needs of the Navy, to properly educate America and the obligation to--to enable understanding. They have to weigh that; I can't weigh that for them in terms of how they're going to use their discretionary time to get underway. Or if they, you know, no one directed or has directed boats, with very rare exception, to get underway to support something that that boat has not wanted to do.

In this case, like all cases, we ask the boats to weigh that, you know, if you guys want to support it, if you feel you can support it, if you want the recognition value for your crew, if you want to show off your boat to the second highest person in the Type Commander Staff, all these different things, you know, if you want to support that, let us know. They come back to us and say, "we would like to support that." So I think it would be, with all due respect, sir, a misunderstanding to say that we are dictating to the boats that they have to get underway for this. CO's have the discretion to accept it or not accept it, and there's not one word said one way or the other if they can't support it, it's a piece of cake. In this case, we would have turned it into a tour.

MBR (RADM STONE): We'll just say I disagree with you on your philosophy. I think that's your responsibility to provide that oversight.

WIT: Yes, sir.

MBR (RADM SULLIVAN): Commander, I just had a couple follow-on questions.

Questions by a court member (RADM Sullivan):

Q. You've been out here doing this for what, about 2 1/2 years?

A. Yes, sir.

Q. Have you seen, during that time, a tendency, I mean submarine CO's by nature are pretty competitive.

A. Yes, sir.

Q. That's the way I remember it. Do you see any tendency to one upsmanship, or I can top this one when it comes to this DV program?

A. No. In respect to DV, in terms of the mechanics of the individual, sir, or----

Q. How it's conducted.

A. With in the--from the time they get under way until the time they pull in, no, sir. Only because that's done within lifelines of the ship and we--again, we don't advertise who's doing what with the different guest. I would say, sir, that in terms of competitiveness, there is, again, you have very competent, very successful Commanding Officers of ships, there is an interest, then again, for different reasons, to break their ship and their crew apart by saying, one; by demonstrating it, you get the recognition value, but also as trying to--trying to generate understanding their boat is a go to boat. I think all the crews are that way, it's not like any sports team where they want to be--where they--the way the feel the pride in their ship and want to show it off.

Q. Is there a--if I was a new Commanding Officer--you mentioned you do some classroom training?

A. Yes, sir.

Q. With prospective Commanding Officers, and I was trying to shape a program my first embarkment, who would I turn to if I was out here in Pearl Harbor?

A. You would turn to me.

Q. Even if I have experience in doing this, and I'm trying to shape the visit for the people that are actually coming, cause you're given a list of names----

A. Yes, sir.

Q. Fairly general characteristics, who do I turn to, to understand better what the objectives of what the visits are?

A. Two things are on that, sir. One, you're right, most of the--I mean all the Commanding Officers have been XO's, they've been Department Heads, they've been division officers, they've all seen these, but the Commanding Officer will typically turn to me and say, "we're going to do this, here are the folks, anything in particular that might be good, any value you can add to what we're doing," they would turn to me. If they're higher level visitors, let's say an actual Senator or a representative, they may turn to RADM Konetzni. If there's someone involved with let's say, the Energy Department, they may decide to go to--to Reactors, you know, again, these are very sharp folks that want to absolutely maximize the potential benefit of having these folks onboard, for their benefit and for the Navy's benefit.

Q. In the case of the GREENEVILLE situation, did you have a discussion with the Commanding Officer?

A. Yes, sir, I did.

Q. Can you enlighten me what the issues were?

A. Yes, sir, it was, I think, Thursday late morning. He came in and I was--the physical structure of my office is such that the door's actually in the back of my office, came in that way, I think I was on the phone, and my embark assistant is--there's a doorway right there, so I face the doorway and her desk sits this way, so the Commanding Officer was talking to her, and I was on the phone, got off the phone, and she said, "Hey, sir, do you want to talk to CDR Waddle," and I said, "Okay," and the nature of the discussion was this, from my recollection, and that was, "Hey, we're doing this thing tomorrow and I hear RADM Konetzni isn't getting underway and I hear RADM

Macke isn't getting underway." I would say he was disappointed. And what he said was, from my recollection, "You know, it really bums me out, bums my crew out.

Those guys are very excited to get that kind of opportunity, RADM Konetzni, I think, had been underway on the GREENEVILLE before," and I apologized and said, "if there was--if it was conveyed that RADM Konetzni was getting underway, I apologize, it was never intended because I don't think he had ever intended to get underway, he just asked if anyone on the waterfront could support it." I said, "as for ADM Macke, at that point, as far as I understood, he was still getting underway," that turned out an hour later when his office called up and said he was not able to make it.

I remember specifically telling them, the person that called me, the Assistant, "Well shoot, the Captain, indicated the crew and he was very excited to get him underway and show off the GREENEVILLE pride," and I said, "Can I tell them why ADM Macke's deciding he won't be able to get underway?" And there was poignant pause with an "uhh, he has--something came up." I remember hanging up the phone and telling, Rowena, "well that's great," you know, "it's clear that guy," with due respect for the Admiral, that he had not intended to get underway, but until that point and just before CDR Waddle came in, my Assistant had talked to one of the lead folks in the group, Mr. Tolman, I believe, who indicated that he had just talked to ADM Macke and he was getting underway.

So in any case, I apologized for RADM Konetzni not getting underway. I understood at that point ADM Macke would be getting underway, and I told him I had talked to the Chief of Staff and that Chief of Staff had intended to get underway, and that he would be there for awhile and that for recognition value for his crew and for showing off the crew, it would behoove the crew because the Chief of Staff had just relatively, recently reported only several months ago and they'd be here for sometime, so that there was benefit there. And after that, I think, we talked about--he asked, well, so who are these folks? And, I told him I think they're businessmen, and you know, some folks, you know, that we're actually trying to gather information on them still, this was later than we usually have it, on specifically, you know,

who they were, other than to say businessmen and some of the stuff. And he said, "Where are they from?" And I said, "I think Colorado and Texas," he said, "I'm from Texas," and he seemed enthused and that was basically the nature of the embark. We didn't talk--we didn't talk about other stuff with respect to the visit program and opportunities to interface with the public and things like that.

Q. So your recollection, about this time, you knew the Chief of Staff was going to ride the GREENEVILLE?

A. Yes, sir. I had actually been on leave the week previous, from the Monday to the Friday, came in Monday the 5th, I think, was my first day back from leave, I'd actually been off island, I had an e-mail waiting for me from the Chief of Staff saying "Dave, should I go or not go?" We have a 0800 weekly Monday meeting, well I went in there with some of the senior Department Heads, and when I briefed that, I said there will be an underway Friday, and they said, "who are they again?" I said well I got some biographical information, and some information on the corporations for which they work, I said, I'll get those to you, and he said, "Yeah, I need to talk to you about that." So, and that was on that Monday.

I tried to talk to him Monday, I think, and he--his door was closed, so I ended up writing a little note on some of the biographical stuff, you know, whether or not he had to get underway. I told him that knowing how busy the Chief of Staff is, that, you know, that we had another Captain. As a matter of fact, that Monday morning, another Captain said, "Hey, I'll ride. I'll serve as escort." So, I left that on the note. I think I got a second e-mail or maybe I just opened that one from the Chief of Staff saying what's the status, should I go? So then I sent him an email back reiterating what I had written in the personal note and then I ended up briefing him that Tuesday as well saying, "these are who they are, again, I'm not sure, and your time might be better spent--maybe meet them on the pier and reflect the Admiral's, you know, attention that--that he was glad they could get underway, and I did meet with the Chief of Staff, he did express, as I remember, four reasons for getting underway, and he made them very clear to me.

One was, he said, first and foremost, former Pacific Commander thinks these people are worth his personal time and attention, who am I to argue with that. RADM Konetzni--he indicated he sent RADM Konetzni a note and hadn't gotten a response on whether or not he wanted him to serve in his--as his personal representative. The Admiral's on the road and it's not infrequent for him not to respond. The second reason that he said he was going to get underway as he's heard a lot of positive things about the GREENEVILLE, and that--he heard a lot of positive things and he wanted to find out for himself. The third thing was that his son-in-law was the Engineer, so it would be a neat opportunity. The fourth thing was he wanted ride time and maintain proficiency, and that kind of stuff, and he said in that order. He made it very clear, and I remember thinking in my head, you know, probably an opportunity to go to sea with his son-in-law.

Q. Did you ever inform him that this was a 1 day evolution?

A. No, sir. At that point, I didn't know it was a 1 day evolution.

Q. But, it occurred to you later on?

A. If I did, sir, if I did, it would have been Monday morning--excuse me, Friday morning. We were a little but bit panicked because the guests showed up at the gate. I got a call at 0625 or 0630. I was already in the office, but we weren't necessarily prepared and the last thing I wanted to do was bring them right down to the ship who's preparing to get underway, so if I mentioned to him it would have been there, but I cannot recall if I did or didn't. I don't think I did.

Q. Okay. This particular group of visitors to your recollection was there any follow-on social function or some other event that would put some stress on getting the ship returned to port on time?

A. No, sir, none of which I'm aware. No, not from the ship or from the people. No, sir.

Q. By the people.

A. No, sir, none of which I'm aware.

Q. If I reported to SUBPAC as an "N" Head and I hadn't done this before and I came to you, what would you tell me I should do as senior escort officer?

A. First, I would approach you if I wanted you to get underway. And usually--again depending on who they are and what level they represented, and the Admiral's druthers, typically what we do is try to find the person best suited to leverage awareness on both side. What's best for the visitors, what's best for the ship and for the Navy. Let's say congressional liaison. If it's an actual representative or senator, the Admiral may do it. If it's some liaison assistance or something, we may have our N5 do it, who's our congressional liaison guy.

And that way he develops contacts, an understanding, and just what I would typically tell them is I would take the group and take the ship and I would give them the same information, in this case, I would have given the Chief of Staff, and the boat. And here's the background on them; here's what we understand them to be. Again, your obligation is to serve as the continuity from shore back to shore. If there are questions outside the life lines of the ship which the ship, of course Commanding Officer, everybody else is focused inside the hull of the submarine. Not so much, what's the recruiting environment, you know, those types of things. That's what they're there for to help provide.

Q. What about their role on safe conduct of the evolution?

A. The safe conduct of the evolution. Other than to serve as flexibility and logistical backup to the ship. That is to say, oh, we going to pull into a different port. You know, they would call in and say, hey, we have to have the vans over on a different location or something like that. Typically, for the safety of the ship, we leave that to the ship, sir, who better knows the ship. The crew who better knows the ship.

Q. What about the rules of these type of visits? You've mentioned, you tell the ship a lot of things not to do. How about the escort officer? Does he have an understanding of what the limitations should be as VADM Nathman alluded to speed, depth? What types of things should be done, shouldn't be done to assist the Commanding Officer.

A. No, sir. I do not pass that to him other than unless there's a specific instance. Let's say, they are the Department of Energy folks where I may get an inkling, what I mean by an inkling, is that they want to take them back aft or something which requires special approval. If it isn't for something like that, no, sir, I leave it up to the crew to negotiate the safety aspects of the visit.

MBR (RADM STONE): Okay, thank you.

WIT: Yes, sir.

PRES: Counsel for CDR Waddle?

Counsel for CDR Waddle, party (Mr. Gittins): Yes, sir. Thank you, sir.

CROSS-EXAMINATION

Questions by counsel for CDR Waddle, party (Mr. Gittins):

Q. I just want to make sure I understand. Sir, are there no collateral duty Public Affairs Officers at the squadron level?

A. There are people that serve to help schedule tours, and it's typically the Yeoman, but there is no designated public affairs at the squadron.

Q. So, no one has the title as a collateral duty, Public Affairs Officer.

A. None of which I'm aware, no. And I would add that I would hope there's nobody there in the squadron in that capacity advising Commanding Officers in public affairs matters.

Q. So, to your knowledge, there's no person at the squadron level with the collateral duty Public Affairs Officer.

A. That would be correct.

Q. Your directions from RADM Konetzni was, don't break china?

A. Yes, sir.

Q. I take it that that means do it according to the regulations?

A. The way I took that was it means, hey look, don't rearrange schedules to make this happen. Again, if somebody doing something, see if we can add them on. If not--again if somebody wasn't available, just turn it into a tour.

Q. Let me make sure I understand. Don't break china in your mind meant don't change schedules?

A. That meant, right, that's right. On the onset, don't change schedules to accommodate.

Q. Now is it your testimony that RADM Konetzni approached you and said that he told you that ADM Macke had made this request?

A. He told me that ADM Macke had some guests. That sounded like they were the kind of people we'd want to get underway.

Q. When did he tell you that?

A. I'm wanting to say, sir, sometime before the 23rd of January. I can not recollect because it was a passing--from my recollection it was in the squadron billeting which was unusual because the Admiral isn't normally over in the squadron billeting which is the same building in which I reside.

Q. You're in Squadron Building?

A. Yes, sir, first floor.

Q. You have any other hats other than public affairs for the Type Commander of SUBPAC.

A. Hats is a broad term. I mean I do everything from the web to speech writing. There's a lot a of responsibilities that fall under that but I'm known as the PAO.

Q. Do you perform public affairs for any other commands other than SUBPAC?

A. No, other than overseeing Group 9, and Bangor, and San Diego's public affairs things, with respect to the

Submarine Force. But I do not oversee--again; it's a pane with a broad brush. But, no, everything I do, I think, is related to my function as Submarine Forces Pacific Public Affairs Officer.

Q. So, you don't have anything to do with surface ship's PAO?

A. No, sir.

Q. Isn't it true that this DV embark was first suggested in or about September of 2000?

A. Yes, sir. If I can work backwards on that one, let me fully explore what I know.

Q. I tell you what, how about letting me ask the questions. If that's true, I'll ask the questions and you can just answer my questions, okay?

A. Okay. The answer is I did not recognize it as such until after the fact. But yes it is true; the folks that ADM Macke hoped to set up first approached CINCPACFLT in September.

Q. This is the same group that ADM Macke had discussed back in September?

A. That is my understanding.

Q. Maybe it changed a little bit but it's the same group that ADM Macke, overall, intended to bring and did bring to the GREENEVILLE on or about the 9th of February 2001.

A. According to, and let me qualify that, according to an interview I saw on KITV 4, it was probably the same group that he had earlier had tried to arrange.

Q. Who is LCDR Douglas W. Mikatarian?

A. He is somebody at the Fleet level, I'm wanting to say an EA or an aide but I couldn't tell you for sure.

Q. When you say the Fleet level, are we talking CINCPACFLT or are we----

A. I'm sorry, CINPACFLT, and I think in the Deputy CINCPACFLT arena.

Q. Okay. We've been provided, and it's Exhibit 32, email that indicates that the Deputy, and I guess that's the Deputy of CINCPACFLT?

A. Not CDR Mikatarian but I think he works for the Deputy. I don't know his title. Deputy CINC.

Q. I'm speaking of Enclosure (32), Exhibit 1. Exhibit 1 is the Preliminary Inquiry. The email says the Deputy got a call from ADM Macke, (Ret), who is bringing a group of 10 to 12 high rolling CEOs sponsored by a group hosting a golf tournament on the island. SECNAV interested in treating this group well. Macke asked if they can get a tour of a submarine and get an in and out ride on a boat as well. Request whether this is feasible. Date for ride: 15, 16, 18, 19 January, and if so, can we set up a submarine to be able to do this?

A. Yes, sir. And I will tell you in my mind I thought of that as Tiger Woods or--don't ask me why that's just something that went through my mind. It was later withdrawn by the same office.

Q. But the indication that you had were that--what you later went back and did some investigation about this is that this was supposed to be 10 to 12 high rolling CEOs sponsored by a group hosting a golf tournament on island?

A. That's right. And I think the headline--again, the thing that stuck in my mind and what was on our file was SONY Open VIPs or something like that. And I remember thinking--again thinking golfers. And then around about the same time we did a couple of tours for some high profile golfers, including one guy that had just missed a 4 foot putt. And I remember thinking if he came in second place--I remember thinking--well, that must--and after--again retrospect, thinking through all this stuff--thinking well, that must have been what they were talking about.

Q. None of these guys, to your knowledge, played--are professional golfers or----

A. No, sir, none of the ones that were underway that day, no, sir.

Q. In the email that you were sent, you were the addressee from CAPT Kevin M. Wensing, dated September 25, 2000. The email says, "Dave and Senior, ADM Macke, (Ret), who is bringing a group of 10 to 12 CEOs names TBD. SECNAV interested in treating this group well." When you received this email, sir, did you make any effort to ascertain why the Secretary of the Navy was interested in treating this group well, or who they might be that the Secretary of the Navy was even interested in them?

A. No, sir, I did not.

Q. Have you ever confirmed that the Secretary of the Navy ever heard of these people?

A. No, sir, I have not. And again, can I qualify or no? I'll just--okay, that's fine.

Q. When you got an email that said the Secretary of the Navy----

A. I--I--yes, sir, you're absolutely right.

Q. Is interested in treating this group well.

A. Yes, sir.

PRES: Counsel, can he qualify though? Can he?

Counsel for CDR Waddle, party (Mr. Gittins): Absolutely, sir.

PRES: Alright. I just--he wanted to qualify and I think that----

Counsel for CDR Waddle, party (Mr. Gittins): I know, sir, but I'm trying to do my examination in less than 2 hours.

PRES: Alright then go ahead, it's your nickel, counselor.

Counsel for CDR Waddle, party (Mr. Gittins): Yes, sir.

Q. There was some email traffic--I guess something must have happened to this thing. It went out of the loop from Jan--from September to January about. I mean, there's not much email correspondence or any email correspondence between September and January, correct?

A. If there was I couldn't find it, sir. But I'll--I will tell you that I did get more information on it and it was that, hey, we need to--and again, it was from Fleet, I couldn't tell you who it was, but it indicated we might be able to get Matt Lauer as part of this and maybe do a, "where in the world is Matt Lauer," or something like that. I didn't get a warm fuzzy. It was over the holiday season. I'm thinking it's--we get a lot of requests and I just saw it as, if it happens--when we get closer we'll ask the boats, but we didn't pursue it with vigor at that point to be honest, it was a little bit far off and we'd pursue it--and they--it was withdrawn before I think we even pursued it to see if there was anything available.

Q. Was one of the reasons you didn't question the Secretary of the Navy's purported interest in these VIPs was because ADM Macke was their sponsor?

A. Ask the question again, sir.

Q. Was one of the reasons you didn't pursue and find out what the Secretary of the Navy's interest might be in these VIPs the fact that ADM Macke was their sponsor, sir?

A. No, sir. The reason we didn't pursue it with vigor is: One, it's a long way off; and two, we had other--we had other competing issues before that. And I think we talked before about how dynamic submarines schedules are. I wasn't about to go back to Fleet and say, "Oh, yeah, we can--we can set something up," because so many things changed between there and I did not want to--to solidify anything. So we were going to cross that Bridge when we got a little closer to the event. And it was withdrawn before we really even pursued it.

Q. The request was withdrawn?

A. Yes, sir, indicating that it was no longer--they were no longer coming and you know--and again it's a little bit fuzzy because I don't remember if--if we asked and got a "nobody really available" or if we just--or if at that point--because the initial request came in so--back in the fall and finally worked up towards--closer towards

that event where it was with--I remember it was withdrawn. I just can't remember if--if we said there was nothing available or if they said they're no longer coming. The reason I think I keep saying it was withdrawn is because I remember the interview with ADM Macke a couple days after the accident where he said things had changed and he had cancelled it. So maybe--maybe my mind is cluttered. All I know is we weren't supporting it, so at that point----

Q. And that was after September?

A. That was--yes, sir, that was on about November or December.

Q. Tell me what--tell me about that interview that you heard ADM Macke say that it had been cancelled. Tell me about that.

A. I remember catching it--I'm wanting to say it was a week or two after the 9th of February. It caught me by surprise. I turned on the TV watching the media and he had indicated that these were folks that had been supporting--supporting the MISSOURI--some sort of golf tournament and that he had originally arranged--tried to arrange a ship or a submarine through the public--various public affairs offices and that for whatever reason and I can't remember what it was that that went away and that--and it turned out that they decided to come out again, just later, that same group of people. And that's when he went back and asked if there were any opportunities to get these folks underway.

Q. Did you satisfy yourself that there was no financial relationship between these DVs and ADM Macke?

A. Did I satisfy myself? No, sir. I didn't--I--it never--it never came to my--I never worried about it. Again----

Q. Okay. You never worried about it?

A. Nobody ever asked me to reconcile what--what the visitors and ADM Macke or anything else. All I know is my Admiral came to me and said, "These are types of folks that I think are consistent with who we want to get underway----

Q. And that was based on his conversation with ADM Macke?

A. I would understand so, yes, sir.

Q. So, RADM Konetzni was operating on information that he'd been provided by ADM Macke?

A. That's what I inferred from our conversation, yes, sir.

Q. Around February 5th this thing starts--actually in the end of January it starts bubbling up again, correct?

A. Yes, sir. Jan--sometime not long before January 23rd, because that's the email that started the paper trail for this.

Q. Okay. On February 5th, CAPT Brandhuber sent you an email, which he asked for an update on the DV escort?

A. Yes, sir.

Q. And it's attached to an email you had with ADM Macke. It's the--it's a follow-on to that email?

A. Yes, sir. That--the long string there. Yes, sir.

Q. And it says--and it says, "Please provide update on this. Who will attend? Will the Admiral go to sea?" etcetera.

A. Yes, sir.

Q. Did you understand who CAPT Brandhuber was referring to--will the Admiral go to sea? ADM Macke or RADM Konetzni or both or either of them?

A. I'm not sure, sir. I read--I remember reading an email and seeing that it's an ambiguous modifier. They were trying to figure out who he was talking about.

Q. But your response though you said, "ADM Macke"----

A. I suspect ADM Macke because I think he knows the Admiral's travel schedule at that point and the Admiral wasn't around. That would be my suspicion.

Q. And in your response you indicated on the following day, February 6th, that you do not feel that the need--you did not--you personally did not feel that CAPT Brandhuber needed to accompany this group of DVs nor need RADM Konetzni, correct?

A. Admiral was off the island so he wasn't available. And again, based on recognizing how busy the Chief of Staff is and that I had another Captain that was willing to do it I offered that to the Chief of Staff.

Q. And in your email you said, quote, "I do not feel you need to accompany nor do I suspect will the Admiral."

A. Yes, sir. At that point I think I'm talking about RADM Konetzni. Again, I had just come off leave so I suspect that--and again, that was based on the one time conversation when the Admiral said, "Hey, see if you can do this." But I suspect I was talking about the Admiral.

Q. And then CAPT Brandhuber on the same day comes--comes back to you within the 2 hours and says, "As we discussed. Please provide lift and I will go."

A. Yes, sir.

Q. So your understanding was CAPT Brandhuber would accompany?

A. Yes, sir.

Q. And then the following day I believe there's a--7 February--a sailing list--request NAVBASE access that's produced by your office and sent to the Naval Station Pass and ID?

A. Yes, sir.

Q. And that indicated that one of the people who was to have access to Naval Station Pearl Harbor for the civilians who are scheduled to embark on a submarine included Richard Macke, correct?

A. Yes, sir. I think that was done the morning of the 7th or so. I guess.

Q. You signed that letter?

A. I signed it, yes, sir. As a matter of fact, if I remember, I put retired next to ADM Macke because I was concerned about the gate guard I got a 4-star coming through. Not that we wouldn't treat the retired Admiral with as much respect, but just--in the event he was in civilian clothes obviously.

Q. So it was your--it's your handwriting on the letter that says, "Admiral--ADM period, parenthesis USN, comma, RET, closed parenthesis?"

A. Yes, sir. And again, that was for the benefit of that first or second class guy guarding the gate, so he knew it was civilian clothes.

Q. And you indicated that by the 8th when you talked to CDR Waddle, ADM Macke had dropped out?

A. When I talked to CDR Waddle at that point he had not--he had not dropped out and it was literally--I'm wanting to say it was less than an hour later where a female assistant called me on the phone and indicated that. And I remember specifically going, "Well, crap, we just talked--I just talked to him and told him that ADM Macke had indicated he was going." And that when I asked the reason I had the distinct impression that they weren't prepared for me to ask why he wasn't going because they didn't give me exactly a thorough answer.

Q. I thought you testified that Admiral--that CDR Waddle appeared disappointed that ADM Macke and RADM Konetzni would not be going.

A. That's correct. And I think I had talked to you--to CDR Waddle saying, "Well, I don't know--you know ADM Konetzni I don't think was ever gonna go. So I apologize for that." And I said, "That as far as we know we had just talked to Mr. Tolman, we being my Rowena, my assistant, had talked to Todd Tolman who indicated yeah, we just got off the phone with him. He is going and we're excited. And I said, "So ADM Macke is still going." About an hour after CDR Waddle left the office I got a phone call from his secretary indicating that he would no longer go. And I think I had sent an email not long after that indicating that to somebody. I can't remember so.

Q. Was CAPT Winnie the person that you had indicated was another member of the staff who was interested in riding along with the DVs?

A. Yes, sir. He expressed an outstanding request to say that, "Hey, if you ever need anybody--again, he's a post--major command afloat Captain, so he is pretty senior and reflects well on the command that we're giving the guests--a representative of the Admiral in his absence.

Q. On 5 February, you sent a handwritten note to CAPT Brandhuber, correct?

A. Yes, sir.

Q. And that's the--that's the one you were talking about with--in response to the Admiral's questions about another individual wanted to ride--was willing to ride?

A. Yes, sir. And I think that stemmed from that morning at the 0800 brief when I initially brought it up either right before the meeting or right after I think CAPT Winnie said, "Hey, remember I'm here if you need me" kind of thing. "I'll get underway if you need it." And again, my interest was Chief of Staff, who is, in my experience very busy with a lot of stuff, I was encouraging him--I was--I only would discourage him to go recognizing that he's got a lot of work here and that we've got it covered if he--if he chooses he doesn't want to go.

Q. And in that same note you indicated to CAPT Brandhuber, quote, "In my estimation these are not the most distinguished of visitors and I do not necessarily--and do not--was--would necessarily warrant your personal attention other than maybe check--greeting them pier side?

A. That's correct. Yes, sir. For the reasons indicated--That again, weigh--knowing what his workload is I'm like, "Hey, you know, we--we've got folks that can--that can fill the bill and you can stay here."

Q. Alright. At some point these--these distinguished visitors had a personal interest, apparently, of the Secretary of the Navy, correct?

A. It would seem so. Yes, sir.

Q. Okay. But on the 5th of February you indicate, quote, "In my estimation these are not the most distinguished of visitor".

A. Yes, sir.

Q. Well, what--what did you do to inform yourself as to the relative merit of these visitors given the Secretary of the Navy's personal interest at one point?

A. Yes, sir, consistent with the program as laid out in the Public Affairs Plan for the year that we have 5 very specific things we were trying to achieve with our Public Affairs Programs. These folks, would they help? Sure would. A lot of folks. We invite everybody to come down and learn something about their submarine. But----

Q. Well, what would these bring to the--what would this group of distinguished visitors bring to the table that would--would justify sending a submarine to sea? That's kind of the question I have in mind. Could you explain to me what--what this group collectively brings to the table?

A. The same as a lot of other groups and that is these are a business--I think in this case there are business leaders and one sports writer and that they have influence over a corporation with a lot of people. And, that again with the concurrence of the Commodore and the submarine to support it, that seemed like a good opportunity you need have these folks learn more about their Submarine Force and their Navy.

Q. I take it that you didn't know much about these people other than what you've been told?

A. Ah, well we dug some stuff up on the web, but I'll tell you that I didn't know as much as I normally like to know about. We usually--getting information from the web and from ADM Macke and just getting information surrounding the businesses. We pulled stuff off the web and we called them and we got basic information, but we usually like--and again, it's not so much of a--it's more of a fact of trying to tailor the--the embark and their needs and recognizing them by learning more about them. And, frankly I don't think that we had as much information as I would prefer on each individual.

Q. Well, let me just ask you a couple of questions. What's Aquila, A-Q-U-I-L-A, what is that?

A. As I learned pulling stuff off the web or actually, well me not pulling it off, it's a subsidiary of some energy company.

Q. And, what do they do?

A. Meet energy needs and set energy corporation or so.

Q. How about Old Pueblo Viejo?

A. Same--as I understand it, a subsidiary of the previous mentioned energy company.

Q. So, they're both Old Pueblo Viejo and Aquila or--or subsidiaries of the same company, to your knowledge?

A. They are members of the--the business to which these folks belong. Excuse me, the one led and then----

Q. How about Incap, do you have any idea what that was?

A. Ah, no I do not recollect what that was.

Q. Were any of these subsidiaries related to any organizations that ADM Macke may have been a director or officer or shareholder?

A. I do not. There is no check in the block for asking that kind of information.

Q. Well, you received some communication in one of the emails that ADM Macke was at some sort of business meeting when he made this request, correct?

A. I don't remember a business meeting for ADM Macke.

Q. No--do you have an understanding of what ADM Macke presently does now?

A. Ah, no I do not.

Counsel for CDR Waddle's party (Mr. Gittins): That's all I have at this time, sir.

PRES: Counsel for LCDR Pfeifer?

Counsel for LCDR Pfeifer, party (LCDR Stone): No questions, sir.

PRES: Counsel for Mr. Coen?

Counsel for LTJG Coen, party (LCDR Filbert): No questions, sir.

PRES: Counsel?

CC: Commander, you're directed not to discuss your testimony in this case with anyone other than a member of the court, parties or counsel. You will not allow any witness in the case to talk to you about your testimony or any testimony that he has given or which he intends to give. If anyone other than counsel or the parties attempts to talk to you about your testimony in this case, I'd ask that you make that fact known to me. Do you understand?

WIT: Yes, sir.

CC: You're excused.

WIT: Thank you, sir. Admirals.

[The witness withdrew from the courtroom.]

CC: Mr. President, I have one matter for the court. Yesterday, Counsel for the Court determined that Petty Officer First Class Patrick Seacrest, the Fire Control Technician of the Watch on the afternoon of the collision, had decided not to testify on advice of counsel. This morning, I passed the court's recommendation to the Convening Authority, ADM Fargo, to grant Petty Officer Seacrest Testimonial Immunity. The Convening Authority has agreed with the court's recommendation and has signed an immunity grant in accordance with Section 0138b of the Manual of the Judge Advocate General. At the specific request of his counsel, Petty Officer Seacrest is to be given a reasonable amount of time to prepare to testify. Sir, I would recommend at this time that the court recess until 0800 Monday morning at which time, we will take Petty Officer Seacrest's testimony.

PRES: Okay, we'll recess until 0800 Monday morning.

The court recessed at 1430 hours, 16 arch 2001.